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# *Government in Virginia*

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*Rosewell Page, D. Litt.*









**Government  
in  
Virginia**

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by

Rosewell Page

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# Government in Virginia

By

ROSEWELL PAGE, D. Litt.

Of all the various modes and forms of government that is best which is capable of producing the greatest degree of happiness and safety and is most effectually secured against the danger of mal-administration.

—*Virginia Bill of Rights.*

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## ***NOTE WELL***

***Consult Index by Section at end of Volume.  
It is both Questionnaire and Key, and intended  
to be used in place of questions sometimes put  
at the end of chapters.***

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# Government in Virginia



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# Dedication

## [ Section 1 ]

To those who help to administer the government faithfully:—From the Governor to the First Year School Teacher; from the General Assembly to the Clerk of the Board of Supervisors or Town Council; from the Court of Appeals to the remote County Magistrate; and to all who realize that “Public Office is a Public Trust,” and that “all political power is vested in and derived from the people.”



# Introduction

## [ Section 2 ]

I propose to write of Government in such a way as I hope may inform those who have not the time, nor wish to read a treatise of too much detail or a volume of too great bulk. Each subject must be studied by the Index which is both questionnaire and key.

## [ Section 3 ]

The value of the work must be judged by the work itself. The writer feels that he may write of the subject because he has studied it for forty years and has had some experience in both local and state affairs. He has served as a member of the Board of Supervisors of his County, and for two terms was in the House of Delegates where he was Chairman of the Committee on Courts of Justice, and a member of the Committee on Schools and Colleges. He is now with the Executive Department of the Government, and as one of the two Auditors, is in close touch with the administration of public affairs, particularly with the Revenue, the School system and the Public Debt. He is President of the Commonwealth's Board of Sinking Fund Commissioners. And he also has had some experience in the judicial branch of the State Government, for in the Escheated Bank Deposit cases of which there are more than four thousand on the docket, he is Judge in a Court which is one of the few which never adjourns.





# Government in Virginia.

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## 1. The Definition.

### [ Section 4 ]

The definition of Government in Virginia is meant to include whatever agency is employed to guide the Commonwealth in her efforts to establish, enforce and maintain the law, long ago defined as "a rule of civil conduct prescribed by the highest law-making power commanding what is good and forbidding what is bad." That agency, so far as this work is concerned, may be the Constitutional Convention, the General Assembly (the legal name for the Legislature), the Commissions, the Courts, or the Executive. It embraces the government of localities, whatever system they may use, whether County Boards of Supervisors, City or Town Councils, Managers or Committees, Electoral Boards, School Electoral Boards, School Trustee Boards, Magistrate's Courts, with the duties performed by Clerks and local officers such as Assessors, and Commissioners of the Revenue, Sheriffs, Treasurers, Road Commissioners, Superintendents of the Poor, Constables and County Surveyors, no less than the Government of the Commonwealth with her centrally located offices at the Capital and her various departments dealing with every section and subject connected with the orderly conduct of a free and sovereign people.

Such Departments, Commissions, Bureaus, Boards and all Commonwealth, or local agencies, I hope, shall be so described that the student or reader may know how the laws of the Commonwealth are made and executed; how the Revenue is collected and distributed, how the Schools are organized and taught, how the Roads are built and financed, what the Public Debt is, how it was incurred and how it is being satisfied. There are a great number of

officers in the state. This work I hope will give an accurate account of them and their duties, and tell how those duties are performed.

## II. The Supreme Power.

### [ Section 5 ]

Government in Virginia as George Mason wrote in the Bill of Rights, adopted that summer day, June 12, 1776, as part of the preamble to the first Constitution of the Commonwealth, adopted June 29, 1776, five days before Jefferson's Declaration of Independence, rests on the fact "that all power is vested in and consequently derived from the people." It is commonly expressed as "the Consent of the Governed." That was the first written Constitution of a Representative Government ever adopted. This statement is made with knowledge of the Twelve Tables, the Amphictyonic Council, Magna Carta, the English Declaration of Rights, the Yearley Convention, the Mayflower Compact, and the Connecticut Trecking Resolves. The Bill of Rights became the ten Amendments to the U. S. Constitution by 1791.

### [ Section 6 ]

Virginia lives under a threefold form of Government, Federal, State and Local, each well defined, the first two and the last two having at times a common jurisdiction, that is, each can punish for the same offense, or tax the same property. The Federal or United States Constitution as amended, while it exists, is the supreme law as to all matters embraced in it, because the Constitution of September, 1787, made in Philadelphia with George Washington as President of the Convention was ratified by Virginia and a sufficient number of other states to make it valid. This adoption by Virginia was made against the protest of Patrick Henry, George Mason, William Grayson and other great Virginians, and only prevailed by a small majority, though advocated by John Marshall, James Madison, Edmund Randolph, Henry Lee and other great Virginians.

Amendments have from time to time been made to the number of nineteen—sometimes without Virginia's vote as in the case of the latest one, removing the disability of suffrage because of sex. An amendment to the Constitution of the United States declares that all powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively or to the people. And the Bill of Rights in the Virginia Constitution declares that the rights enumerated in such Bill of Rights shall not be construed to limit other rights of the people not herein expressed.

### [ Section 7 ]

The State Constitution is supreme in all matters contained in it; not in conflict with the Federal one. As to all matters not contained in it or the Federal Constitution, the General Assembly, as the representatives of the people, is supreme. For it must be borne in mind that ours is a Representative Democracy, and not a pure Democracy such as used to exist in Athens, as some who are not familiar with our Government sometimes assert.

### [ Section 8 ]

A citizen of Virginia hears much about the Federal Government, and the Government at Washington, and of course during the War it was much in evidence, as it has control of military affairs as the United States Constitution provides. During the elections to Congress, which occur every two years, he hears of tariff or indirect taxes laid by the United States on all foreign-made articles which are brought into this country, and he may hear of the United States taxes on the manufacture of tobacco, and that a federal Court sits in Richmond and other Virginia cities to try federal cases which may summon him to serve on a jury; but except when he buys postage stamps, and remembers that all the money in use is made under authority of the Washington Government—the Congress and President—the only time a citizen of Virginia is apt to have dealings with the Federal Government is when once a year



he is required to make a return and pay a federal income tax if that income amounts to \$1,000. for a single man, or \$2,000. for a married one. The Virginian who travels, or ships goods beyond the state's borders learns that the United States regulates prices for such travel and shipments, and some who remain at home know that the Federal Government enforces the prohibition act at times as rigorously as does the State Government. This is done by authority of the Constitution and its amendments and laws passed in pursuance thereof as above set forth. The State has as many Presidential Electors as members of Congress.

### [ Section 9 ]

Many citizens confuse the Constitution with the Statutes. "What is the Constitution among friends?" a question attributed to a New York statesman, is the idea of some people. Yet the difference is so great that any act passed by the General Assembly contrary to the Constitution is void, and it is the duty of the Court upon any question brought before it involving the matter, to declare it void. An act of the General Assembly that goes counter to the provision of the Constitution is as if it had not been passed.

### [ Section 10 ]

There have been four Constitutional Conventions in Virginia since that of 1776 already mentioned:—that of 1829-30; 1849-50; 1868; and 1902. Membership in a Constitutional Convention is conferred by constituencies after two consecutive General Assemblies have voted for calling the Convention and a vote of the people duly provided has been cast for it. The ballot, or "ticket," submitting the question to a vote of the people usually contains the statement

"For" a Constitutional Convention

"Against" a Constitutional Convention.

At the polls, or voting place, the voter strikes out the first word of one sentence, which gives his vote to the other.

The duty of the member of a Constitutional Convention is a special one, and the revision when made becomes the law of the Commonwealth as to all matters with which it deals. Sometimes the work of a convention is submitted to a vote of the people for ratification, but this is not necessary as was shown in the Constitution of 1902 under which Virginia still acts.

### [ Section 11 ]

The value of a written Constitution is obvious to a thoughtful mind. It establishes the law upon a firm basis. It prevents fickle or capricious action, and offers a way to provide for a change of the law when the people wish it. An amendment to the Constitution may be made in the way provided, without destroying the other part of it. This has frequently been done. A recent case was when it was amended, by giving the Legislature power to vote bonds for roads, which before had been limited to issuing bonds only to take up the old bonds then outstanding or when there was insurrection in the Commonwealth.

### [ Section 12 ]

It is obvious that the Constitution should contain only general principles and not the details of legislation. The former provision which limited the age of children whom the Legislature might require to go to school to the ages between eight and twelve years, and that which limits the salary of the Governor to five thousand dollars, or that which makes the Governor and Attorney-General members of the Board of Education, thereby connecting them with every local dispute when a Superintendent of Schools is elected, instead of leaving them free to act as advisers and overseers as to the whole situation, had better have been left to the General Assembly. So also is the provision in the Constitution unwise in my opinion that requires every bill to be read three times in each House, or have a roll call showing that such provision was only omitted after a recorded vote showing the fact. Of course, those who



would like to see the Legislature meet only once in ten years, as I heard a minister declare recently in a sermon, forgetting that when Charles I undertook to enslave the liberties of England he had no legislature for eleven years, will not agree with me; but if Legislatures are as I believe them, the guardians of the liberties of the people, such a provision has no place in the Constitution of a great state.

### III. The Division of Powers.

#### [ Section 13 ]

The founders of our Government were so particular as to write into the first Constitution "that the legislative, executive, and judiciary departments shall be separate and distinct so that neither exercise the powers properly belonging to the other, nor shall any person exercise the powers of more than one of them at the same time, except that justices of the County Court shall be eligible to either House of the General Assembly."

#### [ Section 14 ]

Clause III of the Bill of Rights of the present Constitution ordains that "except as hereinafter provided the legislative, executive, and judicial departments shall be separate and distinct, etc." The exception quoted accounts for commissions, bureaus, and agencies hard to classify as belonging to one or the other of the three grand divisions, as they partake in a measure of them all.

#### [ Section 15 ]

The reasoning of the fathers was sound. No one of the three great Divisions ought to be allowed to interfere with the other two. The Boards of Supervisors and the Common Councils of the towns and cities are Legislative Bodies of right, and should be held to that useful and important function. Men would be willing to serve in such capacity should these Bodies meet once a month to pass

ordinances and to legislate for their respective municipalities; but when these Bodies have to serve as executive bodies, and as committees have to meet day after day, or night after night to spend the appropriations, which they themselves make, the task is such that men shrink from the labor involved, and those who do thus serve the people honestly, instead of being criticized, should be praised for their labor in the public service.

### [ Section 16 ]

There is the obvious difficulty, which the method adopted by the fathers prevented, of the same men voting and spending the money. This is a serious matter and should not be tolerated. Not with any desire to reflect upon the integrity of the honest men who have adorned and still adorn the local departments mentioned, but as a statement of bed-rock principle no man or set of men who vote the people's money should spend the same. The money raised by levy of taxes should be spent by a Body elected for that purpose, and not by the Body which lays the levy. Some years ago this writer suggested the idea that in the matter of City Government the analogy of the State law should be followed: that the Mayor and his Cabinet of official heads of Departments should be the executive to spend the money, which the Common Councils should appropriate as the legislative department, and that the analogy would be complete as to the judiciary department by giving the justices and magistrates certain discretionary powers now exercised by either the one or the other of the departments mentioned.

## IV. Legislative Department.

### [ Section 17 ]

The Legislative Department of the State Government consists of the representatives of the one hundred counties and twenty-two cities and two hundred or more towns and villages constituting the Commonwealth.

## [ Section 18 ]

The General Assembly meets under the Constitution once in two years in Regular Session, and oftener in Special Session if desired when the legal requirements are complied with. The General Assembly is composed of two Bodies—a House of Delegates and a State Senate. There are at present in the two Houses—called the lower and upper House—one hundred Delegates and forty Senators, the limit allowed by the Constitution. Five thousand or more inhabitants constitute a city in the eyes of the law, and that number is necessary to entitle the place to a City Judge and Court of Record. No new county has been created in Virginia for forty years, and only one since the Civil War, “Dickenson.”

## [ Section 19 ]

The Senatorial and Legislative Districts are fixed by law pursuant to the powers given by the Constitution, and the people’s representatives come together to deliberate upon questions involving the public good at the Capitol in Richmond where the General Assembly, as the meeting is called, sits sixty days and receives pay, though it may sit thirty days longer without pay. A Special Session can last only thirty days with pay. The Regular Session meets in due course, the Special Session, upon the call of the Governor or in certain cases upon the call of its members as provided by the Constitution. A majority of each House of the General Assembly is always necessary to pass a law, and the Governor is given authority to veto any measure within a time specified, after which time, if he has taken no action, or if there be a two-third’s vote in favor of over-ruling his veto, the bill becomes an act.

## [ Section 20 ]

Delegates to the General Assembly are elected once in two years, and the Senators once in four years. They receive five hundred dollars for the session of two



months, and two hundred and fifty dollars for the Special Session, as already mentioned of one month. The presiding officers of each House receive a slightly larger salary. Provision is made for the keeping of the minutes of the two houses by Clerks elected each session, and for enrollment and printing of the acts of each session which are distributed to the members, and officers of the State, including the magistrates of the County Districts. The latest act dealing with any subject repeals a former act as is usually declared in the new act.

### [ Section 21 ]

The time for the election of members of the General Assembly is fixed by law, and the election day which is the Tuesday after the first Monday in November every second year is generally a well known day in every community. Elections are provided by law and each county and city is divided into districts and wards with well defined boundaries within which there are established "precincts" for voting in which judges of election and clerks receive, pass on, and count the votes cast. The Government pays for, and supplies the ballots for each precinct or voting place, which on the night of the election are counted, recorded and taken to the Court House of the county or to the City Hall or other place of the cities and towns provided by the proper authorities, and the results recorded and published in due time as provided by law.

## V. The Electorate or Voters.

### [ Section 22 ]

The qualification to vote for members of the General Assembly is the test established for all other officers.

Voters of the Commonwealth since the passage of the XIX Amendment to the Constitution of the United States, which prohibited any law forbidding voting because of sex, consist of her citizens over twenty-one male and female du-

ry registered, who have lived in the State two years, in the county, city or town one year, and in the ward or district thirty days before the election, and have paid their State poll or head tax for the three years preceding at least six months before the election. The requirement as to the payment of the poll tax does not apply at present to women, nor to those who have become of age within the three years. The Treasurers of the counties and cities are required to file with the clerks of the Courts mentioned (Circuit and Corporation) a sworn list of those who have paid their State poll taxes six months prior to the election. The clerks shall make copies and the sheriff or sergeant shall post one copy at each precinct and make sworn return of the fact to the clerk. The clerk shall send certified list with poll book prior to each election to one of the judges at each precinct in the county or city, and within sixty days from its receipt shall send certified copy of list of those who have paid their poll taxes to the Auditor of Public Accounts, who shall charge the amount of such poll taxes to the Treasurer unless they have been already paid. Any voter whose name is omitted from the printed list is given the right to apply to the said Courts to have his name put on the list of voters. There are exceptions made in the State Constitution as to the paying of such poll or head tax as a pre-requisite to voting in the case of Veterans in the Armies and Navies of the United States and Confederate States. Removal within thirty days from a precinct within a county, city or town to another therein does not forfeit the right to vote in the first precinct.

### [ Section 23 ]

Before any citizen can vote, he or she must register before a duly qualified officer called the Registrar, who is appointed by the Electoral Board composed of three citizens, who in turn are appointed by the Circuit Court of the County or the Corporation Court of the Cities. Regular days are fixed by law for the meetings of the Electoral Boards, and they are required to keep minutes of their pro-



ceedings and an account of the appointments and removals of the judges, clerks, and registrars which shall be open to the inspection of anyone who wishes to examine the same at any time.

### [ Section 24 ]

Ballots, or "tickets" as they are called, have to be provided by the Commonwealth without any mark or symbol, with the same form for all places where the election is held. The ballots must contain the names of all candidates, and the offices to be filled, in clear print and in due succession. But the voter can put in another name in place of one erased.

### [ Section 25 ]

The secrecy of the ballot is insisted on; but the ballot box must be kept in public view. No voter can be arrested on civil process during attendance at an election or in going or returning therefrom, nor can he be compelled to perform military duty, except in time of war or public danger. Nor can a citizen be compelled to attend any court as suitor, juror or witness during the time of holding an election in which he is entitled to vote.

### [ Section 26 ]

The Secretary of the Commonwealth, who is elected every four years by vote of the people along with the Governor, prepares and distributes the books for the registration of voters. He sends them to the County Clerks and the Clerks of the Corporation Courts of the Cities, to be by them distributed to the Registrars of their respective election districts. The lists of white and colored voters are kept in separate books. Persons who will become of age before the election day may register. Registration is entering by the Registrar, after he has been sworn, of the voter upon the book duly ruled as required by law, which entry gives the number, name of voter, the fact that he is sworn, the age, occupation and place of res-

idence at the time of registration, the length of time of such residence in the County or City, naming the street and number of the house in which he resides, the time of residence in the State, etc. Provision is made in case of removal, for a name to be stricken from one precinct, and upon certificate of the fact to be added to the Registration book of the new precinct.

### [ Section 27 ]

Idiots, insane persons, paupers, and persons disqualified by conviction of certain crimes, or by fighting a duel or aiding or abetting in fighting a duel or sending a challenge to fight, are excluded from registering and voting.

### [ Section 28 ]

Every person qualified to vote for a member of the General Assembly can hold office of state, county, city or town wherein such voter resides, except where the Constitution provides otherwise. It would seem, therefore, that if the Constitution restricts certain offices to male citizens, women would be excluded as the question of holding office is not involved in the XIX Amendment; but only the question of voting or suffrage.

Provision is made for absent voters to vote by mail upon compliance with the requirements of the statute.

### [ Section 29 ]

All offices, unless the Constitution provides otherwise, begin on the first of February following the election. Members of the General Assembly, and all other officers—executive and judicial—take and subscribe an oath to support the Constitution of the United States, and of the Commonwealth. No person can vote in a Primary Election unless at the time he is registered and qualified to vote at the next succeeding election. A Primary Election is

one held to determine between candidates in the same political party, who shall run in the general election.

### [ Section 30 ]

To return to the Legislative Department of the State Government:—The members of the General Assembly, while their term of office lasts, cannot be appointed to civil offices of profit except by election by the people.

### [ Section 31 ]

A law can embrace but one object, which must be expressed in the title. A violation of this proviso renders the law invalid as it is a Constitutional requirement. A law can only take effect ninety days after the adjournment of the session, unless there be the statement of emergency put in the act, and the General Assembly by a four-fifth's vote of members voting in each House, taken by yeas and nays, with names entered in the journal, directs otherwise.

### [ Section 32 ]

Certain State officials at the Capital failing in their duty are impeachable by the House, and tryable by the Senate. Conviction requires a two-third's vote of the Senators present. Judgment only goes to removal from office, and disqualification to hold office under the State. The General Assembly by a two-third's vote may remove the disability under the anti-dueling act. It is forbidden to suspend the writ of Habeas Corpus, which is the right of any person illegally confined to have his case brought before a judge for immediate hearing, and it cannot pass laws incorporating churches, though it may secure church property. It can enact liquor laws; but cannot establish a lottery, or permit the sale of lottery tickets. It cannot pass special laws in certain cases; but its laws must be general. It may give certain powers to Boards of Supervisors and City Councils. It cannot make appropriations to charitable or sectarian institutions, not owned or con-



trolled by the State, except for non-sectarian institutions for the reform of youthful criminals; but this does not prevent its allowing counties, cities and towns to make such appropriations for charitable institutions or associations.

### [ Section 33 ]

It is required at each session to appoint auditing committees of the departments having charge of the State's revenue, who shall report the results to the Governor who shall publish the same in two newspapers of general circulation in the State.

## VI. The Executive Department.

### [ Section 34 ]

The Executive Department of Government in Virginia is vested in the Governor, who is elected for a term of four years which begins on the first of February next succeeding his election. He is ineligible to succeed himself in the next term, nor can he hold any other office during his term of service. He is elected by the people at the November election when members of the General Assembly are elected.

### [ Section 35 ]

Returns of the election are sent under seal to the Secretary of the Commonwealth who delivers them to the speaker of the House of Delegates on the first day of the next General Assembly, who within a week, shall open the returns in the presence of the majority of the two houses, and the votes shall then be counted, and the person having the highest number of votes shall be declared elected. If two or more have the highest and an equal number, one of them shall be chosen Governor by the joint vote of the two Houses of the General Assembly.

### [ Section 36 ]

The Governor must be a citizen of the United States. If of foreign birth, he must have been a citizen of the United States for ten years preceding his election, and of the State for five years next preceding his election. He must be thirty years old, reside at the seat of Government, and receive \$5,000. and no other emolument from this or any other Government. This is the pathetic situation, and limits the great office to men of fortune.

### [ Section 37 ]

The Governor of Virginia receives the same salary now that he received under the Underwood Constitution, not as much as a teller in a Bank should receive, though an appropriation is made for minor expenses of "The Mansion, etc." His duties are to see that the laws are faithfully executed; inform the General Assembly, at each session of the condition of the State; recommend expedient measures; call the General Assembly, on the application of two-thirds of both Houses, or when he thinks the interest of the State requires it.

### [ Section 38 ]

He is commander-in-chief of the State's land and naval forces. He has power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws. He deals with other and foreign states; and during the recess of the General Assembly has power to suspend executive officers at the seat of Government, except the Lieutenant-Governor, for misbehavior, incapacity, neglect of official duty, or for acts performed without due authority of law, of which he must make reports to the next General Assembly at the beginning of the session, which has power to restore or finally remove such official. The Governor may appoint temporary successors, and fill all offices of the State for which no provision is made; but his appointments so made expire thirty days after the commencement of the next General Assembly.

**[ Section 39 ]**

He can remit fines and penalties as provided by law, and except where prosecution has been carried on by the General Assembly, he may grant reprieves and pardon after conviction. He may remove political disability consequent upon conviction for offenses, and may commute capital punishment; but shall report to the General Assembly at each session the particulars of every case with the reasons for his action.

**[ Section 40 ]**

The Governor may require information under oath in writing from the officers of the Executive Department and Superintendents of State Institutions, upon any subject relating to their duties, and may inspect, at any time, their books, accounts, etc., and ascertain the condition of the public funds, and may employ accountants in that connection. He may require the opinion of the Attorney-General in writing upon any question affecting his official duties.

**[ Section 41 ]**

All commissions and grants run in the name of the Commonwealth of Virginia, and are attested by the Governor, with the seal of the Commonwealth annexed. Every bill passed by the two Houses must be presented to the Governor before it becomes a law. He may sign it when it becomes a law, or he may return it to the House in which it originated with his objections, called his "veto," from the Latin which means "I forbid." That House shall enter his objections at large on its journal and proceed to reconsider the same. If two-thirds of the members present, which shall include a majority of those elected to that House, agree to pass the bill, it shall be sent to the other House, who in the same way may pass the bill, and it will become a law notwithstanding the Governor's objections.



### [ Section 42 ]

The Governor may veto any item or items of an Appropriation Bill, and the items so objected to go back and take the same course as that above mentioned when a bill is vetoed. In such cases both Houses vote by ayes and noes, and the names of those voting as to such bill or item shall be entered on the journal of each House. If the Governor does not return the bill within five days (Sunday excepted) after it is presented to him, it becomes a law as if he had signed it; but if the General Assembly adjourns finally and prevents such return in five days, the Governor is given ten days after such adjournment in which to sign it; and if he does not sign it, it fails to become a law.

### [ Section 43 ]

A Lieutenant-Governor is elected at the same time and for the same term as the Governor. His qualifications and manner of election is identical with that of the Governor. He acts in case of the death, failure to qualify, resignation or removal from the State or inability to discharge the powers and duties of the office by the Governor. The Lieutenant-Governor is President of the Senate but has no vote except in case of an equal division. He receives the same salary as the Speaker of the House of Delegates.

### [ Section 44 ]

Three of the oldest executive offices of the State, known as "Basement Offices," because they were formerly in the Basement of the Capitol Building, are those held by the Treasurer, the Auditor of Public Accounts, and the Second Auditor. They have charge of the Public Debt.

### [ Section 45 ]

The Treasurer is elected by the qualified voters at the same time and for the same term as the Governor. The fact of his election is ascertained in the same manner. The

two Auditors, Register of the Land Office and Public Printer are elected by the joint vote of the two Houses for the term of four years. Their duties, like the duties of the Treasurer, are fixed by the General Assembly as are the salaries, which may not be increased or diminished during the term for which they have been elected or appointed. The Register of the Land Office is keeper of the grounds and buildings. The Auditor of Public Accounts has charge of the collection of the State taxes, and of the settlements therefor.

[ Section 46 ]

There are checks and balances required by the Constitution between the officers at the seat of Government, who have charge of the collections, receipts, custody, or disbursement of the revenues of the State. These checks and balances are secured by the requirement that no money can be paid into the treasury except upon the warrant of one or the other of the two Auditors. Nor can any money be paid out of the treasury except upon the order of one of the two Auditors. And the Treasurer's books and the two Auditors' books are kept balanced all the time.

[ Section 47 ]

Neither of the Auditors is allowed to receive any money; but each one is required whenever the State's revenue under his supervision is brought in to make a settlement with those whose duty it is to collect the same, and to make a "pay-in warrant," which directs the Treasurer to receive from the bearer the sum ascertained to be due by the official to the Commonwealth or to any fund under the control of the Commonwealth.

[ Section 48 ]

The State's revenue when collected, therefore, goes into the State Treasury upon the order of one or the other of the two Auditors. Thus the books of the Treasury and of the two Auditors are kept balanced, and thus only could Receipts and Disbursements ever be checked up. The



Second Auditor's office was established in 1823, when the State began to issue stocks and bonds for public improvements, to build turnpikes, railroads and highways. The Commonwealth used to assume two-fifths of the expense, and issue its bonds to raise money therefor.

### [ Section 49 ]

The Treasury of the State consists at present of the deposits in a hundred and twenty-five banks, called State Depositories, located all over the State. Such Depositories are designated by a Board, consisting of the Governor, the Auditor of Public Accounts and the State Treasurer, called the Finance Board. Security is required as fixed by law, and interest upon daily balances is allowed the Commonwealth. The Treasurer issues his check upon one or the other of these State Depositories, his check being upon the same paper with that upon which the Auditor having charge of the fund issues his warrant.

The Board of State Canvassers has the same members as the Finance Board.

### [ Section 50 ]

As an illustration: If one be entitled to a soldier's pension, the Auditor of Public Accounts issues his warrant upon the Treasurer for one-fourth of the annual pension, at the beginning of each quarter, on which the Treasurer writes the name of the Bank which he wishes it paid by, and signs his name; it then becomes a check only to be collected when endorsed by the Confederate Soldier or his widow. Proof of service in the army, or of the widow's marriage, is on file in the Auditor's Office, which has been sent there from the Clerk's office of the County or City of the Pensioner's residence. Forms are sent out by the Auditor for such proof.

### [ Section 51 ]

If one be entitled to a teacher's pension, the Second Auditor issues his warrant upon the Treasurer for one-fourth of the annual pension, and the same process is gone

through with. The Second Auditor being the accountant of the Literary Fund, is given charge of the accounts of the Teachers' Pension Fund by Statute. Proof of service as a teacher is on file with the Board of Education which issues an order for the payment of the pension from the Retired Teachers' Fund, which will be described in a later chapter.

## VII. The Judiciary Department.

### [ Section 52 ]

The third great Division of Powers, which the framers of this Government recommended to the people and was adopted by them in the Constitution, was the Judiciary Department. So powerful is this Department that the Constitution limited it in terms to a Supreme Court of Appeals, Circuit Courts, City Courts, and such other courts as are named in the Constitution. The regulation of the Courts so far as jurisdiction is concerned was given to the General Assembly except what was conferred by the Constitution itself.

### [ Section 53 ]

The Supreme Court of Appeals has five Judges; but any three of them may hold Court. It has only appellate jurisdiction (meaning appeals from other courts) except in three cases, habeas corpus, already explained, mandamus, which is a mandate or order to some official to do his duty, and prohibition, which is an order to some official not to do some act.

### [ Section 54 ]

It is given appellate jurisdiction in matters involving the question whether any law passed by the General Assembly is opposed to the State or Federal Constitution; and in cases involving the life or liberty of any person, and the General Assembly may fix other causes for this appellate jurisdiction. And no appeal shall be granted

to the Commonwealth in any case involving the life or liberty of a person. But the Commonwealth may have an appeal in any case involving the violation of a law relating to the State revenue.

### [ Section 55 ]

No appeals are allowed in civil cases below \$300. exclusive of costs and interest accrued since the judgment of the Court below, except in matters involving title or boundaries of land, condemnation of property, probate of wills, appointment, or qualification of personal representative, guardian, committee or curator, or concerning a mill, roadway, ferry or landing, or the right of the state, county or municipal corporation to levy tolls or taxes, or involving the construction of any statute, ordinance or county proceedings imposing taxes. In matters merely pecuniary the Legislature since 1910 has the power to change the jurisdiction of the Court. The recent act granting appeals of right in criminal cases has been questioned as unwise by some good men.

### [ Section 56 ]

At least three Judges must assent to make a valid decision on questions involving the constitutionality of a law as repugnant to the State or Federal Constitution.

### [ Section 57 ]

The decrees of this Court have to be in writing, with reasons given therefor, and preserved with the records of the case. These decisions called Reports serve as a guide to lawyers in advising clients as to the law in any case presented to them. Provision is made for a Special Court of Appeals where a Judge of the Court may not properly sit or where the docket cannot be disposed of "with convenient dispatch" — such Special Court to be composed of not more than five nor fewer than three Circuit Judges or Judges of Cities of the first class, or of the Judges of



either of said Courts or of any of the Judges of said Courts together with one or more Judges of the Supreme Court of Appeals.

[ Section 58 ]

Judges of the Supreme Court of Appeals are chosen by the joint vote of the two Houses of the General Assembly. When chosen they must have held a judicial station in the United States, or have practiced law in this or some other state for five years. They are elected for twelve years. They must sit in two or more places in the State. They usually sit in Richmond, Wytheville, and Staunton. The officers of the Court are appointed by the Judges, and their salaries fixed by the General Assembly.

[ Section 59 ]

There are now thirty-three Judicial Circuits in which Circuit Courts are held. These Circuits are arranged, and may be rearranged by the General Assembly; but must not have fewer than 40,000 inhabitants by the last U. S. Census in the new circuit or in the old from which the new may be made. Circuit Judges are chosen by the joint vote of the two Houses of the General Assembly, and must have the same qualifications as Judges of the Supreme Court of Appeals, and must reside in their circuits. Their term is eight years. The Circuit Judge may hold Court in another Circuit as provided by law. At present he is designated by the Governor in case of necessity.

[ Section 60 ]

Provision is made for City Judges by the Constitution. First Class Cities are those, which by the last United States Census, contain ten thousand or more inhabitants. Second Class, fewer than ten thousand. In first class cities there is a Corporation Court in addition to the Circuit Court. The General Assembly provides additional Courts in Cities of over thirty thousand. If a Corporation

or Hustings Court is abolished in a city of the second class, the city comes under the jurisdiction of the Circuit Court. Judges of the City Courts are chosen by the joint vote of the two Houses of the General Assembly, and possess the qualifications of Judges of the Court of Appeals. Judges of City Courts of the first class may be required to hold Circuit Courts of any county or city.

### [ Section 61 ]

Courts of Land Registration have been established by the General Assembly in certain Cities and Counties for the purpose of settlement, registration, transfer, or assurance of titles to land in the State or any part thereof. In other Counties and Cities a referendum must permit them. This is familiarly known as the Torrens System. The Circuit Court of the Counties, and the Courts in the Cities in whose offices deeds are registered are given jurisdiction upon compliance with the requirements of the act.

### [ Section 62 ]

The Clerks of the Circuit Courts and in Cities, of the Hustings Courts, etc., admit wills to probate, and act in the appointment and qualification of guardians, personal representatives, curators, appraisers, and committees of the estates of persons adjudged insane or convicted of felony, and in the matter of the substitution of trustees.

### [ Section 63 ]

All Judges are commissioned by the Governor. Their salaries and allowances are fixed by the General Assembly; but they shall not be diminished nor increased during their term of office. In case of a vacancy in the office of Judge, a successor is elected for the unexpired term.

### [ Section 64 ]

Judges of the Supreme Court of Appeals receive not less than \$5,000. to be paid by the State. Judges of the

Circuit Courts receive not less than \$3,600. — one-half paid by the State and one-half by the counties and cities in proportion to population. The State shall pay the city's part of the Circuit Judge of Richmond. The City Judge receives not less than \$3,600., one-half to be paid by the city and one-half by the State. The salaries of the Judges have been recently increased.

[ Section 65 ]

The State pays the whole of the salaries of the Judges, and is reimbursed as to the half due by the counties and cities. Cities under ten thousand pay the salaries of the Corporation or Hustings Court. Any City may by ordinance increase the salaries of the City or Circuit Judges, to be paid wholly by the city; but this shall not be done during the term of office of the Judge.

[ Section 66 ]

Judges may be removed from office for cause by a concurrent vote of both Houses of the General Assembly; but a majority of all the members elected to each House must concur, and the cause of removal entered on the journal of each House. The Judge proceeded against must have at least twenty days notice, and a copy of the causes alleged for his removal.

[ Section 67 ]

Judges of the Courts of Record cannot practice law nor hold any other office of public trust, except that a Judge of a city of a second class may be Commissioner in Chancery for the Circuit Court for the county in which the city is located.

[ Section 68 ]

Writs issued from the courts run in the name of the "Commonwealth of Virginia," and are attested or witnessed by the clerks of the several Courts. Indictments must



conclude "against the peace and dignity of the Commonwealth."

### [ Section 69 ]

The Attorney-General, who is the Law Officer of the State and represents the State in all judicial matters before the Court of Appeals, is elected by the people at the same time, in the same manner and for the same term as the Governor, that is for four years. He is commissioned by the Governor. And his salary, which is \$4,500.00, is fixed by the General Assembly, and he is removable as Judges are by vote of the General Assembly.

### [ Section 70 ]

Justices of the Peace are provided for in the Constitution, as the General Assembly shall determine, either by election or appointment.

### [ Section 71 ]

Grand Jurors selected in the manner prescribed by law, report to certain terms of Court and oftener if necessary, violations of the law either known to them personally, or upon evidence brought before them. They report their conclusions, and the Commonwealth's Attorney draws an indictment which is tried before a jury, which hears all the evidence on both sides. The juries are summoned by the Sheriff or Sergeant of the County or City. Notaries for the localities—counties and cities—are appointed by the Governor for four years. A notary pays a fee of five dollars when commissioned.

## VIII. County Government

### [ Section 72 ]

Each of the hundred counties of the State is required by the Constitution to elect by the qualified voters of the county, one County Treasurer, one Sheriff, one Attorney for the Commonwealth, and one County Clerk, who shall be Clerk of the Circuit Court; also Commissioners of the Revenue for each county, the number, duties and compensation of whom shall be prescribed by the General Assembly. There shall also be appointed for each county by the Judge after recommendation by the Board of Supervisors, one Superintendent of the Poor and one County Surveyor, all of whom hold office for four years, except the clerk whose term is eight years. The Commissioners of the Revenue make an annual list of all personal property and improvements on real estate and return their books as required by law to the Clerk's Office.

### [ Section 73 ]

The County Electoral Board, consisting of three members, has already been described under the head of "The Electorate," as appointed by the Circuit Judge. They in turn appoint the officers of election, the registrars, judges and clerks.

### [ Section 74 ]

The School Electoral Board for each county consists of the Division Superintendent of Schools, the Commonwealth's Attorney, and a citizen appointed by the Judge of the Circuit Court. This Board elects the School Trustees, one from each District, who together with the Division Superintendent of Schools compose the County School Board.

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[ Section 75 ]

Among Local Boards, the county, city and town Board of Health, appointed by the Health Board of the State, consist of three citizens, one a regularly licensed physician of the county or corporation with the court clerk and chairman of the Board of Supervisors or Mayor of the corporation. This Board has charge of the Health Department of the county or corporation.

[ Section 76 ]

The Fish and Game Commissioner appoints game wardens who have charge of the game, fish, etc. of the districts assigned them. Commissioners of Accounts are appointed in each county and corporation by the Circuit Courts. Examiners of Records, one for each Circuit, are appointed by the State Tax Board, formed of the two Auditors and the Treasurer. Their duties are to see that fiduciaries make and settle proper accounts.

[ Section 77 ]

Each county is divided into "Magisterial Districts," which in the future must not contain less than thirty square miles. The qualified voters of each District must elect one Supervisor, and the supervisors of all the Districts make the Board of Supervisors of the County. This is the most important office in the County, and perhaps in the State; for the Board, meeting at stated periods and when necessary at other times, lays the county and district levies, passes on all claims against the county subject to law, and performs the other duties required by law.

[ Section 78 ]

Three Justices of the Peace are elected in each District for the term of four years, and the Court may appoint others if necessary. A coroner shall be appointed by the



Corporation or Circuit Judge of a county to hold office for four years. In cities where there are no sergeants nor deputies to act and in counties where there are no sheriffs nor deputies, the coroner shall act. The coroner must be a physician. A constable may act as coroner, if there be none. His duties are prescribed by law. A Constable and Overseer of the Poor are elected in each District. Their duties are defined by law. The Constable is the Executive Officer of the Justice's Court. He serves or delivers notices issued by the Justices, and sells property to pay the judgment of a justice, as the Sheriff does to pay the judgment of a Circuit Court, or the Sergeant that of the Corporation or Hustings Court. A person can only hold at the same time one of the offices mentioned in this Chapter, and he may be required to give additional security or give a new bond, and if not to have the office declared vacant. A county is not responsible for the acts of the Sheriff.

## IX. City and Town Government

### [ Section 79 ]

A city constitutionally is an incorporated community, having within marked bounds a population of 5,000 or more. Fewer, with the same conditions, make a town. The population is ruled as to number by the last United States Census, or such other enumeration as may be made by the General Assembly. The town charter of any incorporated community having fewer than 5,000 when this provision went into operation, is not repealed.

### [ Section 80 ]

The Corporation or Hustings Court may be abolished therein if desired.

### [ Section 81 ]

The city and town governments, as originally constituted, were to be by analogy like the State Government.

The Mayor, or now the Administrative Board or City Manager being the Executive; the Council with its two branches with a different number of members, or with one branch if the city be under 10,000, if the Legislature permit it, whose powers and duties are fixed by law, and elected by the qualified voters which has representation from each ward in proportion to the population of each ward, being the legislative branch. No member of the Council can hold any office to be filled by the Council, and this holds for a year after his term expires. The wards shall be changed every ten years from 1903 and re-appointment made in the representation among the wards as prescribed by law. Any citizen can apply for an order of the Court compelling this re-apportionment. The qualified voters in every city elect a Mayor, a City Treasurer and a City Sergeant for a term of four years, whose duties are prescribed by law, that is by vote of the Legislature. So in every city for the same term shall be elected one Commissioner of the Revenue, and one Attorney for the Commonwealth, who shall also act for the Circuit Court if there be one. The City Attorney is appointed by the City Council.

### [ Section 82 ]

The Mayors and Councils of Cities shall not be elected nor begin their term of office at the same time with the other elective officers of the State. The terms of the Judges and Clerks of the City Courts shall begin at the same time.

### [ Section 83 ]

The Mayor is the chief executive officer of the city, and is to see that the various city officers and members of the Police and Fire Department perform their duties faithfully. He is given power to investigate their acts, and to have access to all books and papers in their offices, and to examine them and their subordinates on oath; to suspend officers and members of the Police and Fire Departments, and to remove them for misconduct or neglect of duty to be set out in the order.



**[ Section 84 ]**

But this shall not be done until such officer has been notified, and been given an opportunity to be heard in person or by counsel and to present testimony in his defense. The officer is given the right of appeal to the Corporation Court, or if there be no such Court, then to the Circuit Court of the city. The case shall be heard anew by the Judge, and his decision shall be final. The Mayor may have other powers, if any are imposed upon him by general laws. He is removable as are other officers of state, county, city, town and district, except those removable by constitutional provision, by the Corporation Court of cities or the Circuit Court of Counties, for cause as provided by statute, with the right to a trial by jury, and an appeal to the Supreme Court of Appeals.

**[ Section 85 ]**

The Mayor is given the power of veto, that is to say "I forbid," but the veto must be sent back with his objections in writing to the clerk or recording officer of the branch in which it originated, and the objections shall be entered at length on its journal, and the body must proceed to consider it. If approved by two-thirds of all the members elected to the body, it shall be sent with the objections to the other branch who shall likewise consider it, and if two-thirds of all the members elected approve, it becomes operative, notwithstanding the objections of the Mayor. But yea and nay votes must be entered on the journal of each branch so voting.

**[ Section 86 ]**

The same rule applies if the Council be of one branch only. If the Mayor does not return an ordinance or resolution within five days (Sunday excepted) after it is presented to him, it becomes operative as if he had signed it, unless his term or that of the Council expires within

five days. He may veto a particular item, and such veto will not affect the other items.

### [ Section 87 ]

The appropriation by ordinance or resolution of any money, exceeding \$100., imposing taxes, or authorizing the borrowing of money can only be done after a vote of the majority of all the members elected to each house; and in case of the Mayor's veto, after a recorded affirmative vote of two-thirds thereof. But if any Charter existing at the time the Constitution was adopted requires two-thirds to pass an ordinance or resolution for appropriating money, etc., that provision shall continue.

### [ Section 88 ]

Permission of the corporate authorities previously obtained is necessary before any company, corporation, association, partnership or persons can be permitted to use the streets, alleys or public grounds of any city or town for street railways, telephone, cold storage, bridge or like enterprises. Due provision is made for advertisement by the municipality for public bids. And the General Assembly may make additional restrictions on the cities and towns granting franchises or selling and leasing property.

### [ Section 89 ]

Three-fourths of all the members in each branch elected to the City Council are necessary to dispose of the city's waterfront, wharf property, docks, streets, gas, water and electric works. And in case of the Mayor's veto to reverse it there is required a recorded affirmative vote of three-fourths of all the members elected to each branch of the Council, if there be two branches.

### [ Section 90 ]

The extension or contraction of the limits of cities and towns is provided for. Eighteen per cent of the as-

sessed valuation of the real estate subject to taxation is the limit of bonded or interest bearing indebtedness in the city or town, as shown by the last assessment.

### [ Section 91 ]

As described in the chapter on County Government the cities and incorporated towns, unless otherwise provided by their charters and reserved by the Constitution to them in terms, have Boards similar to the Counties such as Electoral Boards, School Trustee Electoral Boards, School Trustee Boards, Health Boards, etc. And they have besides Boards not needed in country districts, such as Police Boards, Fire Department Boards, Building Commissions, etc. For cities and towns that have them, the Corporation or Hustings Court has jurisdiction in relation to officials of such corporations as has the Circuit Court in Counties.

## X. Boards and Commissions

### [ Section 92 ]

As one discusses the Boards and Commissions he sees that the beaten path laid down by the fathers as to the separation of the three powers of Government has not been followed, but other ways have been found by which the State Government proceeds. 'Tis true however that the right of appeal is generally given to the courts, and in some cases amenability to the General Assembly, or supervision by the Executive is expressly reserved.

### [ Section 93 ]

THE DEPARTMENT OF AGRICULTURE AND IMMIGRATION is permanently established at the Capital by the Constitution, to be maintained under the management and control of a Board of that name, composed of a member from each Congressional District, who shall be a prac-



tical farmer appointed by the Governor for a term of four years, subject to confirmation by the Senate. The President of the Virginia Polytechnic Institute is ex-officio a member of the Board of Agriculture and Immigration and the President of the Board of Agriculture and Immigration is ex-officio a member of the Board of the Polytechnic Institute. The powers and duties of this department are fixed by the Legislature except that the Constitution provides that the Board shall elect and remove its officers, and establish elsewhere in the State subordinate branches of said Department.

### [ Section 94 ]

A COMMISSIONER OF AGRICULTURE AND IMMIGRATION is elected by a vote of the people who holds office for four years, and whose powers and duties are prescribed by the Board until the Legislature provides differently. He is the executive officer of the Board and subject to approval of the Board appoints the employees of the Department, with power of removal, and with a statement of the causes therefor to the next meeting of the Board. The salaries of certain officers named is fixed by the General Assembly, and all salaries are paid out of the fund in the Treasury to the credit of Department upon warrants drawn by the Commissioner and countersigned by the President of the Board. With the approval of the Board of Agriculture and the Governor, the Commissioner of Agriculture may appoint and fix salaries of such further employees, as may be necessary to meet the growing needs of the Department.

### [ Section 95 ]

The Commissioner of Agriculture shall see to the proper execution of the laws relating to the improvement of agriculture, the beneficial use of fertilizer and compost, and for the inducement of immigration and capital, and be especially charged with the supervision of the trade in commercial fertilizers, as will best protect the interests of

the farmers. He is responsible for the enforcement of the laws as to the sale of commercial fertilizers, seed and food products, and with the approval of the Board is to make regulations governing the same and publish them in bulletins. He is charged with the inducement of capital and immigration by disseminating information relative to the advantages of soil, climate, healthfulness and markets of the Commonwealth, and to the resources and industrial opportunities offered in the State, and he shall prepare a handbook as to these matters, which shall also promote the improvement of the milch and beef cattle and other stock. He shall investigate and report upon the conditions of timber, and recommend legislation to promote its growth and protection, and as to minerals and their value. He has charge of the Museum of the Department of Agriculture and Immigration with specimens of the minerals and the flora and fauna (the vegetable and animal kingdom) of the Commonwealth.

He shall hold or cause to be held Farmers Institutes for the benefit of Agricultural Communities, under the joint direction of himself and the member of the Board of Agriculture and Immigration from the district where held, and publish and distribute papers read or made as may in his judgment or in the judgment of the Board be valuable to the farmers' interest of the State; the expense to be paid out of the funds of the Department as other expenditures are made. He shall make an Annual Report with a detailed financial statement, and give other information on practical agricultural subjects as shall be helpful to the farmers of the State. And the Board shall embrace it in their Annual Report to the Governor, which shall be printed as the Annual Report of the Commissioner and of the Board of Agriculture and Immigration.

### [ Section 96 ]

Manufacturers, dealers and agents for the sale of fertilizer or material therefor must annually register with the Commissioner of Agriculture upon forms furnished by



him, the name of each brand of fertilizer or fertilizer material, giving the details as specified in the act, and pay five dollars for each brand so registered. The Commissioner must deposit with the Treasurer of the Commonwealth the funds so received, to the credit of the Department of Agriculture and Immigration, to be disposed of and be a part of the fertilizer fund, as provided by law.

### [ Section 97 ]

A proper definition of agricultural seeds is set out in the act. Certain seeds shall not be sold, as when they contain three per cent by weight of weed seeds, or when alfalfa or clover contains two or more seeds of dodder to five grams of such seed. Provision is made for enforcing these laws, and for the analysis of seeds and fertilizers and the publication of the results. All seedmen who sell seeds are held to be guarantors that the seeds sold are true to kind and name, and are liable for seeds sold by agent.

### [ Section 98 ]

Any citizen of the Commonwealth has the privilege of submitting samples of agricultural seeds for test and analysis, subject to the rules made by the Commissioner as provided by law. And it is made the duty of the Attorney-General as the highest law officer of the State to institute proceedings in the county or corporation in which violations of the law with reference to seed have occurred. And no one may sell or offer for sale or have on hand agricultural seed for sale or distribution not properly tagged as required by law.

### [ Section 99 ]

THE STATE BOARD OF EDUCATION is established by the Constitution and given general supervision over the public free school system, which system must be established and maintained efficiently throughout the State. The

State Board of Education is composed of the Governor, Attorney-General, Superintendent of Public Instruction; and three experienced educators to be elected every four years by the State Senate from a list of eligible persons one of whom shall be nominated by the respective Boards of Visitors or Trustees of the University, the Military Institute, the Polytechnic, the State Teachers' College at Farmville, the School for the Deaf and Blind and William and Mary College. Two associates shall be selected from Division Superintendents of Schools, one from a county and the other from a city to hold office for two years and have the same powers and duties with the other members of the Board, except that they shall have no part in the appointment of any public school official. There are eleven State Supervisors, each having a separate department such as: Home Economics Education, Agricultural Education, Physical Education, Rural Education, etc.

### [ Section 100 ]

THE SUPERINTENDENT OF PUBLIC INSTRUCTION who must be an experienced educator is elected by the qualified voters of the State at the same time and for the same term as the Governor (four years). His duties are prescribed by the State Board of Education of which he is ex-officio President. His salary is fixed by the Legislature. The powers and duties of the Board of Education are ample for the efficient conduct of the educational system of the Commonwealth. It makes the school divisions, of not less than one county or city, appoints one division Superintendent of Schools for each division for four years, prescribes his duties and may remove him for cause. Subject to statute it manages and invests the school fund. It makes rules and regulations for the management and conduct of the schools, which when published have the force of law unless the General Assembly revises, amends or repeals the same. It selects text books, and school appliances, exercising discretion in the books suitable for cities and counties. It appoints five Directors to serve

without compensation known as the Library Board who shall have the management of the State Library and the appointment of a Librarian and other employees thereof, subject to the rules the General Assembly may prescribe. (But they have nothing to do with the Law Library and the appointment of a librarian and employees thereof which is under the management of the Court of Appeals.) Each Magisterial District is a separate school district unless the Legislature provides differently. Each district under the new law has one school trustee who may be man or woman; as is also the case in cities, and towns forming separate school districts. The Board of Education has charge of the Literary Fund of which the Second Auditor is the accountant. They too manage the Samuel Miller School Fund.

## **XI. The Literary Fund.**

### **[ Section 101 ]**

THE LITERARY FUND of the State consists of the Literary Fund when the Constitution was adopted; of the proceeds of all public lands donated by Congress for public free school purposes; of all escheated property (that is property that has no owner); of all waste and unappropriated lands; of all property accruing to the State by forfeiture, and all fines collected for offences committed against the State; and of such other sums as the General Assembly may appropriate. Only the interest can be used, as the principal under the Constitution has to be kept as a permanent and perpetual fund.

### **[ Section 102 ]**

The history of the Literary Fund is most interesting.

The first Governor Tyler, in his message of December 4, 1809, made several recommendations upon the subject of education. James Barbour, a member of the General Assembly, afterwards Governor and Minister to England, drew the bill which became the act of February 2, 1810 (Acts 1809, page 15). An account was directed to be



designated as the Literary Fund, to which should be credited every payment thereafter made into the treasury on account of any escheat or confiscation, or any fine, penalty or forfeiture, provided always that this should not apply to militia fines.

This act justified the claim of Governor Barbour to be the "father of the Literary Fund"; although the bill drawn by Charles Fenton Mercer, which became a law on February 11, 1811 (Acts of 1810, p. 10), provided for the Board of Managers of the Literary Fund, and forbade the appropriation of its funds to any other object than the education of the poor, as well as providing for its increase from the surplus of the United States' debt due Virginia. William Noland, Esq., was the chairman of the committee which reported both of these bills, and is entitled to a share of the credit for the foundation.

### [ Section 103 ]

For school purposes the Constitution provides that the Legislature must apply the annual interest on the Literary Fund; so much of the State Capitation taxes as is not returnable under the Constitution to the counties and cities (the amount so returned being \$.50 on each collection of \$1.50); and an annual tax on property of not less than one, nor more than five mills on the dollar, to the primary and grammar grades for the equal benefit of all the people of the State to be apportioned on a basis of school population;—the number of children between the ages of seven and twenty years in each school district to be the basis of such apportionment. In case of the segregation of the kinds and classes of property for the purposes of taxation. as to State taxes and local levies, the Legislature may provide a fixed appropriation of the State's revenue to the support of the schools not less than that above mentioned.

### [ Section 104 ]

Local school levies are laid in each county, city and town, if a separate school district, and each school district



may raise additional sums by a levy fixed by the General Assembly to be apportioned and expended by the local school authorities of said counties, cities, towns and districts in establishing and maintaining such schools as in their judgment the public welfare may require; but such primary schools so established in any school year must be maintained at least four months of that school year, before any part of the fund assessed and collected may be devoted to schools of higher grade. Such local levies must be laid and collected as provided by the Boards of Supervisors of the counties, and the councils of the several cities and towns, if the same be separate school districts.

[ Section 105 ]

The Constitution gives the General Assembly authority to establish agricultural, normal, manual training and technical schools, and such grades as shall be for the public good. There are a great number of these schools now in operation, and their work is well known.

[ Section 106 ]

The Constitutional provision as to compulsory education has been amended and something is left to the General Assembly, which has fixed the age at a period between eight and fourteen, and made certain exceptions as to disability, distance, etc.

[ Section 107 ]

Where parents or guardians are unable to furnish books because of poverty, necessary text books are supplied by law to children attending the public schools.

[ Section 108 ]

The teaching of white and colored children in the same school is forbidden by the Constitution.

**[ Section 109 ]**

No appropriation of public funds can be made to any school or institution of learning not owned exclusively or controlled by the State, or some of its political sub-divisions. This does not limit the Legislature in continuing the appropriation to William and Mary College, nor does it affect the payment of interest on what are known as School and College Certificates issued in place of the bonds formerly held by the schools and colleges of the Commonwealth, of which there are at present not quite two and a half millions. Nor does it forbid counties, cities, towns and districts from making appropriations to non-sectarian schools of manual, industrial or technical training, nor does it apply to any school or institution of learning owned or exclusively controlled by them.

**[ Section 110 ]**

Boards of Visitors or Trustees of educational institutions are appointed as provided by the Legislature for the term of four years. They are generally appointed by the Governor.

**XII. Retired Teachers' Pension Fund.****[ Section 111 ]**

The State Board of Education with the Second Auditor of Virginia as the accountant of the Literary Fund, has charge of the Retired Teachers' Pension Fund. One per cent upon the total salary received from state and locality by each teacher in the public free schools is retained in the State Treasury and is known as the Retired Teachers' Pension Fund. The State contributes ten thousand dollars a year to this fund, and there is the sum of one hundred and eighty-two thousand dollars of State and local bonds belonging to the Fund. The pension paid to those who have taught twenty years and are disabled, or to those who have taught thirty years, who must cease teaching in

each case to receive a pension, is one half of the amount of their last five years average salary payable to them in quarterly payments by the Treasurer upon the warrant of the Second Auditor issued upon the order of the State Board of Education. The limit of the amount that can be received by any pensioner is five hundred dollars. Applications are made to the Board of Education for pensions, and that Board passes upon the evidence and disposes of such applications. As an illustration of the Retired Teachers' Pension System: If one has taught for twenty years and is physically disabled from teaching and receiving an average salary of four hundred dollars for the last five years, and is eligible to the pension roll as a retired teacher, he or she receives two hundred dollars per annum payable fifty dollars each quarter. There are nearly six hundred retired teachers now provided for on the pension roll. And further provision will have to be made in future as the number increases.

### XIII. School Loan Act.

#### [ Section 112 ]

Perhaps as notable an act as was ever passed in Virginia was that which allowed the principal of the Literary Fund to be lent to the school districts of the Commonwealth for the purpose of building good school houses. Since its passage nearly four millions has been lent, and nearly half that amount has been repaid. One fifteenth of the loan and a low rate of interest on the balance of the loan (three per cent per annum if the amount is \$3,000. and under, and four per cent if over that amount) are repaid annually. The principal to be returned to the Literary Fund, and the interest to be applied to the school system. The largest amount permitted is \$25,000 on any one building which must represent not more than two-thirds of the value of the building—the locality being required to supply the other third. By the law, the Literary Fund is given a lien upon the school building and grounds.



Fifteen bonds are executed by the chairman of the School Board and signed by him and the Clerk of the Board for the amount of the loan after the application has been approved by the Board of Education and the title shown to have been examined and found correct by the certificate of the Circuit Judge. Upon receipt of these bonds duly executed, the Second Auditor notifies the Board of Education of the fact, and a warrant is given by the Board, payable to the Treasurer of the locality in which the school-house is, as the bonded officer and the amount is paid out of the Literary Fund.

### [ Section 113 ]

The splendid school houses all over Virginia testify to the wisdom of those who passed this law; for every county in the State has taken advantage of its provisions, as have some of the towns. There are more than eight thousand of these school bonds in the possession of the Second Auditor, which are falling due throughout the year, and the collections from fines and escheats, and waste lands together with the repayment of the principal of said loans, amounting to more than four hundred thousand dollars a year, are being thus invested.

### [ Section 114 ]

When the School Loan act was first passed, it was necessary to sell some of the invested funds of the Literary Fund; but those investments have been restored, and only the accruing sums above mentioned and the repayments of the principal of the loans are now used.

On the first of October, 1923, the investment of the Literary Fund amounted to \$4,883.454, of which \$2,366,626 are school loans, \$2,206,960 are state bonds, and \$159,666 are long term school loans which represent investments in local bonds made by the Board of Education under special acts allowing the localities to issue such bonds payable at long periods mentioned in such acts.



## XIV. State School Revenue.

### [ Section 115 ]

The revenue for school purposes comes from State and Local sources, and some of it from Federal sources.

### [ Section 116 ]

The State school money is derived from direct appropriation made by the Legislature; from the interest on the Literary Fund Investments mentioned, and from direct taxation laid on real and personal property (sometimes called the Mill tax because of the provision in the Constitution that an annual tax on property of not less than one nor more than five mills on the dollar shall be laid for the schools of the primary and grammar grades apportioned on the basis of school population between the ages of seven and twenty years in each school district.) Then too, one dollar of the State Capitation tax collected from each citizen over twenty-one goes to the State schools—the other half-dollar going back to the locality whence it was collected, being repaid the local Treasurer by the Auditor of Public Accounts.

### [ Section 117 ]

THE LOCAL SCHOOL MONEY is derived from levies laid by the taxing power of the counties, cities and towns—the Board of Supervisors in the one case and in the other the Common Councils or other authorized bodies—or from donations or the income therefrom, or any other funds which may be set apart for such school purposes. Also from District funds levied for District purposes, including a Dog Tax. Limits are fixed by the General Assembly which such levies cannot exceed and in some cases a vote of the people of the localities within the limits is allowed if the local authorities desire it. The Boards of Supervisors and Common Councils are required to lay the levy for local school purposes at their regular April meeting, or as soon

as practicable when the Division Superintendent shall have laid before it the School Board's estimates. The amount so levied must not be less than fifty cents nor more than one dollar, on the \$100 worth of property, and an additional levy not exceeding twenty-five cents on the \$100 worth of property to meet loans for school purposes.

### [ Section 118 ]

Of the \$22,554,000. of school money received in the year 1922, from all sources—state, and local, etc.—twenty-four and a half per cent came from the state; ten per cent from the counties; seventeen and four-fifths from the districts; twenty-seven from the cities, and twenty and seven-tenths from other sources (city and county.)

Of that amount seventy-nine per cent was spent for instruction; two and nine-tenths for overhead charges, and eighteen and one-tenth for other expenses of operation.

### [ Section 119 ]

Of the 680,924 children of public school age in 1922 (between seven and twenty) there were 137,077 city children and 543,847 county children. And of the total public school enrollment of 545,669; there were 113,453 city children; and 432,216 were county children. Of the 398,235 children in school attendance, there were 93,644 city children and 304,591 county children.

### [ Section 120 ]

Of the 15,401 teachers in the public schools 2,937 were city teachers and 12,464 were county teachers. Of these, they who held higher than first grade certificates were in cities 2,738 and in counties 5,006, a total of 7,744. From the 292 accredited high schools there were 4,081 graduates of which 32 6-10 per cent were boys and 67 4-10 were girls.

### [ Section 121 ]

The average salary of all public school teachers white and colored was \$722. The per capita cost of instruction

on enrollment was \$38.15. And the school term in days was 159.

### [ Section 122 ]

Of the \$20,832,639. (leaving off cents) spent during 1922 there was spent the following for Vocational Education \$207,638. of which amount \$99,371. was for Agriculture; \$35,422. was for Trades and Industries; \$27,594. was for Home Economics and \$45,251 was for Teacher Training. Of the amount for Vocational Education about one-half is returned to the State by the Federal Government under the terms of the United States statute known as the Smith-Hughes Act. That Act in terms applies such U. S. funds to the four items above classed as "Vocational."

### [ Section 123 ]

The properties (school buildings, etc.) of the State public schools are valued at \$32,856,769, of which \$13,432,714 is city property; and \$19,424,055 is county property.

### [ Section 124 ]

The school money comes from several sources.

1. From direct collections of the local school levies printed on the bill whenever a citizen pays his taxes. This is usually due on the first of December. These bills (known as tax bills) are made out by the County and City Treasurers from the books in the clerk's office, returned there with copies sent the Auditor of Public Accounts in Richmond, by the Commissioners of the Revenue and the Assessors of the county or city. These officers have listed, alphabetical by name of owner in each district or ward, all the personal and real property of the tax payers of that county or city, and added up and set down the total amounts of the same. The rate charged on the value of the property so "totalled" and set down is fixed by the Board of Supervisors of the county, and the councils of the cities and towns.



**[ Section 125 ]**

The rate so fixed by the Board of Supervisors or city council is made after the school board of the county or city has made its estimates of the school needs. Generally its advice is taken; though it sometimes happens that a member of the Board or Council either considers himself a better judge of the needs of the schools, or thinks himself a better friend of the tax-payer than the school officials.

**[ Section 126 ]**

2. Another source from which money for schools comes into the local treasury is from the state school taxes collected, at the time that the local levy is collected. The County and City Treasurers receive the school money based upon school population (between 7 and 20), twice a year from the Treasurer of Virginia upon order of the Auditor of Public Accounts. This includes two-thirds of the amount of the capitation taxes for school purposes; there having been also returned the other third to the local treasurers to be disposed of by the Board of Supervisors or City Councils, as they may deem best.

**[ Section 127 ]**

3. The third source whence school money comes to the Treasurers of the counties, cities and towns is from appropriation made by the General Assembly for school purposes according to population, and in certain instances to particular objects, as to Rural Graded Schools, High Schools, Agricultural High Schools, etc. This fund is paid by the State Treasurer upon the order of the Second Auditor of Virginia, after the apportionment has been made by the State Board of Education.

**[ Section 128 ]**

Every school teacher in the Public Schools is paid a monthly salary by a warrant drawn by the local school



authorities—that is by the Chairman and Clerk of the School Board of the county or city in which the school is situated. Upon presentation of this warrant duly endorsed the Treasurer of the city or county pays it and takes in the warrant to be used as his voucher when he settles with the School Board.

### [ Section 129 ]

All the school money belonging to the localities, for whatever purpose is paid to the Treasurers of the counties, or collectors of cities and towns, as they are the bonded officers of the communities. The compensation of these officers is fixed by the statute, and is liable to change by act of the General Assembly at any time. At present they receive commissions ranging in eleven different amounts from seven per cent on all local levies collected, below \$30,000. down to three per cent on amounts collected over \$250,000.. In computing the Treasurer's compensation the collections of revenue for county and city purposes and for school purposes shall be treated as one fund.

### [ Section 130 ]

(a) In addition to the commissions mentioned, the local treasurer has for receiving and disbursing money from the sale of county and city bonds, or district road, bridge or school bonds, one-fourth of one per cent of the amount of the proceeds of the sale of such bonds, and besides a reasonable cost of additional surety bonds required to be given by him on account of such bond issue.

### [ Section 131 ]

(b) On money appropriated by the General Assembly, and on money apportioned from the Literary Fund for school purposes the county and city Treasurers are entitled to such compensation as shall be allowed by the School Board of the counties and cities not exceeding one

per cent of the amount of such school funds received and disbursed by him.

[ Section 132 ]

(c) On delinquent taxes received and disbursed, collected by the clerks of the courts and turned over by them to the local treasurers, such treasurers receive five per cent of such amounts turned over to them. On money received from delinquent tax-payer or from sale of delinquent lands they receive ten per cent.

[ Section 133 ]

(d) On money appropriated by the General Assembly for road purposes, the County Treasurers receive for their services one-fourth of one per cent on the amounts so received and disbursed by them.

[ Section 134 ]

(e) An incoming local treasurer receives two per cent for receiving and disbursing the money turned over to him by the outgoing treasurer, and for collecting the tax tickets turned over to him and disbursing the same, he receives three and a half per cent, except upon school funds turned over to him derived from appropriation by the state, or apportionment by the Literary Fund. His compensation is one per cent of the amount of such funds turned over to him. And on funds derived from county, city or district bonds issued, his compensation shall be one-fourth of one per cent of the amount of such funds turned over to him.

[ Section 135 ]

(f) On all other funds than these specified, the local treasurers receive as compensation for their services for receiving and disbursing such funds, one per cent of the amount of such funds. Such funds include the proportion

of the capitation taxes returned to the counties and cities by the State; funds received from sale of county and district property, donations to county, city or district for any purpose (except amounts received for school libraries) loans made by Boards of Supervisors, City Councils, or County School Boards, and all other funds ordered to be received by the county, city or school authorities.

[ Section 136 ]

(g) No Treasurer shall receive any compensation upon money loaned by the Literary Fund for school improvements.

[ Section 137 ]

(h) The Councils of cities are given authority in certain cases to fix the compensation of City Treasurers.

[ Section 138 ]

“LOCAL REVENUE” as here used includes funds from the assessment of real estate, personal property, licenses, merchants’ purchases and all other subjects of taxation whether the assessments are returned by Commissioners of the Revenue, Examiners of Records, or the State Corporation Commissioners, to be used for the benefit of the several counties, cities, school districts, road districts, or magisterial districts in which such assessments are made.

[ Section 139 ]

As the money returned by vote of the General Assembly from the Treasury to the local treasurers has no reference to that received from any particular locality but is distributed in proportion to school population, number of War pensioners, and miles of road, it seems unjust to speak of counties who thus receive more than is paid by them as “pauper” counties, or as “unprofitable counties.”



In illustration: there are \$679,000 paid War pensioners in the country and \$98,000 in the cities; there are 542,000 children in the country and 138,000 in the cities; and all the roads are in the country. The showing that seventy-five per cent of the counties receive more than they pay in, is perhaps but saying that they have more pensioners, more children, and more roads than the other twenty-five per cent.

## THE COUNTY SCHOOL BOARD.

### [ Section 140 ]

The County is the Unit of School Administration instead of the Magisterial Districts since the Act of 1922. There being one trustee selected as provided by law from each Magisterial District. What were formerly District School Boards are now merged into the County School Boards who have all the powers, duties and responsibilities of the District Boards. The County School Board is made a corporate body capable of suing and being sued. All District School Boards, and all other County School Boards are abolished, though in any city or town made a separate School Division by law, the administration of the public school system is not affected.

### [ Section 141 ]

The trustees of a town constituting a separate school district are made members of the County School Board; though such town has but one vote in the Board. District and County School levies are not affected nor are the obligations to the Literary Fund for bonds issued for school purposes, or other debts peculiar to a district, affected.

### [ Section 142 ]

The members of the County School Board must qualify before entering upon their duties by taking the oath of office prescribed for County Officers. At their first



meeting on or before the tenth of September they elect a Chairman from their number and appoint a competent person as Clerk, and fix his compensation. The Division Superintendent has a vote on any question in case of a tie vote.

### [ Section 143 ]

The County School Board, on or about the first of April, must prepare with the advice of the Division Superintendent, an estimate of the amount needed for the support of the public schools of the County, for overhead charges, for instruction, for operation, for maintenance, for auxiliary agencies, for miscellaneous, including treasurer's commissions, and for permanent capitalization. So much in detail shall it be, that the Board of Supervisors and the tax-payers may be well informed as to every item in the estimate. On this estimate the County School Board shall request the Board of Supervisors to fix such school levy as will net an amount necessary for the operation of the schools. If the Board of Supervisors refuse to lay the levy as so requested, then on resolution of the School Board, the Judge of the Court may in his discretion, order an election by the people of the county, to be held during the month of June to determine whether such levy shall be so fixed.

### [ Section 144 ]

The County School Board may provide a per diem not exceeding five dollars per member for each day he is in attendance upon meetings of the Board not to exceed twenty days in any one year. On July 1st, or as soon thereafter as possible, the County School Board shall publish an annual statement showing all receipts and disbursements of the School fund in the county which shall be published in some newspaper in the county, if there be one, and if not, in any newspaper having circulation in the county. The Statement shall show with reasonable detail all financial

transactions with reference to the operation of the public schools. Not later than July 15th of each year, the County School Board shall make a settlement with the County Treasurer for the fiscal year ending June 30th.

[ Section 145 ]

No Federal, State or County officer nor any deputy, nor supervisor, can act as a member of the County School Board. But there are excepted fourth class postmasters, county superintendents of the poor, Commissioners in Chancery, Commissioners of accounts, Registrars of vital statistics and Notaries Public. Each member of the County School Board must be at the time of his election a bona fide resident of the Magisterial District for which he is elected, and when he ceases to be such resident, he ceases to be a member of the Board. The County School Board, upon the recommendation of the Division Superintendent, approves agents to take the school census.

[ Section 146 ]

The consolidation of schools and the transportation of pupils, where it will contribute to the efficiency of the school system is permitted. A trustee, in his district, may provide for the use of the school houses therein or any legal assembly, out of school hours during the term, or in vacation, and the School Board may permit school houses as voting places in any primary or regular election.

[ Section 147 ]

The County School Board is given the power of eminent domain, as to obtaining land for a school house in a particular spot, where no equitable arrangement for its purchase can be made—not to exceed one acre in town, or five acres in the country; but no dwelling, yard, garden or orchard shall be invaded; nor in any incorporated town, shall any space be taken within one hundred feet of a dwelling, nor in the country any space within two hundred

yards of a mansion house, without the consent of the owner. The School Board shall secure by visitation and otherwise as full information as possible about the conduct of the schools; provide pay for the teachers and other officers on the first of each month, or as soon thereafter as possible; provide adequate facilities including necessary text-books for indigent children; see that proper repairs are made to school properties; examine all school claims, and when approved order payment. It shall pay salaries and other claims by warrant on the County Treasurer, signed by the Chairman, and countersigned by the Clerk of the School Board. The warrant to state on its face the service or purpose for which it is paid.

### [ Section 148 ]

The School Board may establish evening classes, or part-time classes, giving Industrial education in Agriculture Household arts or Commercial training, designed to meet the vocational needs of persons over fourteen able to profit by such instructions.

### [ Section 149 ]

Before the 1st of August, the County School Board must make an annual report covering the work for the year ending the previous 30th of June. The form to be supplied by the Superintendent of Public Instruction. It shall see that the school laws are properly explained and enforced; make local regulations for the conduct of the schools, and for proper discipline of students in accordance with the general rules of the State Board of Education, and the statutes. It shall employ teachers and place them, on recommendation of the Division Superintendent, and dismiss teachers when delinquent, inefficient or unworthy. Teachers to be employed must hold a certificate in accordance with the rules of the State Board of Education. A violation of this provision makes the individual members of the School Board personally liable to refund any amount



paid, to be recovered by suit in the name of the Commonwealth's Attorney.

[ Section 150 ]

The County School Board may appoint a local School Committee of not more than three members for each school house, to advise the Board and cooperate with it in provision for the care of school property, and for the successful operation of the school. Such committee to serve without compensation.

[ Section 151 ]

THE STATE CORPORATION COMMISSION.

Perhaps the most potent agency of the State Government after the three great Departments described, is the Corporation Commission. It had its consummation in the present Constitution of the State (1902), and is perhaps due more to the efforts of the late Caperton Braxton than to any other of the distinguished members of the body that framed that instrument.

[ Section 152 ]

A permanent Commission of three members was established to be known as the State Corporation Commission and to serve for six years each, after the first term, and at first appointed by the Governor, subject to confirmation by the General Assembly in joint session, but now elected by the people. No person can hold such position who holds any position or has any official relation to any transportation or transmission company, or who has any financial interest therein, nor can he engage in the practice of the law during his term. One of the three Commissioners must have the qualifications prescribed for Judges of the Court of Appeals, and the Commissioners may be impeached or removed as is a Judge of that Court. The Commission shall annually elect from the members a President, and shall appoint a clerk and



bailiff and such other clerks, officers, assistants and subordinates as may be provided by law, whom it may remove. It shall prescribe its own rules of order and procedure, except as limited by the Constitution.

[ Section 153 ]

The General Assembly was given the authority, and has under that authority established subordinate divisions or bureaus of Insurance, Banking or other special Branches of the business of the Department. The sessions of the Commission must be public, and a permanent record kept of all its judgments, findings, etc. Two members constitute a quorum for business. The office must be kept open for business every day except Sundays and legal holidays. The members of the Commission and its officers, when engaged in official duties, are transported free of charge by transportation companies within the state. The General Assembly makes provision for suitable quarters, and for payment of its lawful expenses, including the pay for witnesses summoned, and shall fix the salaries of its members which shall be not less than four thousand dollars per annum.

[ Section 154 ]

The powers, duties and method of procedure are prescribed by the General Assembly, except as ruled by the Constitution. It is the department of Government through which charters of domestic corporations and licenses of foreign corporations to do business in this state are issued, and for the carrying out of laws for the creation, visitation, supervision, regulation and control of corporations chartered by, or doing business in this state.

[ Section 155 ]

The Commissioner prescribes the forms of all reports required of corporations by the Constitution or by law; it

collects, receives and preserves such reports and annually tabulates and publishes them in statistical form. It supervises, regulates and controls all transportation and transmission companies doing business in this state, and prescribes and enforces against them, such rates, charges, classification of traffic and rules and regulations, and requires them to establish and maintain all such public service facilities and conveniences as may be reasonable and just, which rules and regulations it may from time to time alter or amend.

### [ Section 156 ]

It shall have the right at all times to inspect the books and papers of such companies doing business in the State, and require special reports and statements under oath covering their business. It must keep itself fully informed of the physical condition of all railroads of the state, as to the manner in which they are operated with reference to the security and accomodation of the public, and shall make and enforce rules against unjust and unreasonable discriminations by any of said companies against any person, locality, community, connecting line or kind of traffic in the matter of car service, train or boat schedule, efficiency of transportation or otherwise, as to the public duties of such companies. Ten days notice shall be given such company of the time and place where such matter of fixing rates, etc. will be considered.

### [ Section 157 ]

The Company shall be given a reasonable opportunity to introduce evidence and be heard and shall have process to enforce the attendance of witnesses and before any general order or rule shall be prescribed, notice thereof shall first be published once a week for four consecutive weeks in one or more newspapers of general circulation in the city of Richmond, Virginia, with notice of the time and place

when and where such Commission will hear objections by any person interested against the proposed general order, rule, etc. and the authority of the Commission subject to appeal as provided in the Constitution is paramount, except that the General Assembly may pass general laws thereupon. Nor does this affect powers given municipalities in their charters to regulate any public service corporation wholly within the limits of such city, town or county which has granted such franchise.

### [ Section 158 ]

In all matters touching the visitation, regulation and control of corporations, the Corporation Commission is given the powers of a Court of Record to administer oaths, compel the attendance of witnesses, the production of papers, and to punish for contempt or disorderly conduct in the presence of the Commission while in session.

It may enforce its process against a delinquent company after such delinquent has been duly cited and afforded opportunity of offering evidence and being heard. Fines and penalties up to \$500. or as prescribed by law above that sum, may be imposed as prescribed by the Constitution or law.

### [ Section 159 ]

It is given power to prescribe and enforce rates in connection with the assessment of property of corporations or with the appraisement of their franchises, or with the investigation of the subject of taxation generally.

### [ Section 160 ]

APPEALS OF RIGHT lie from the action of the Corporation Commission to the Supreme Court of Appeals of the State who may provide rules for the proceedings in which existing rules are inapplicable. In such appeals the Commonwealth is made the appellee or party defendant in



the appeal. The Commonwealth may also appeal in certain cases provided by the General Assembly. No court but the Court of Appeals has the right to interfere with any of the official acts of the Corporation Commission; but the writs of mandamus or prohibition already explained in the chapter on the Judiciary Department will lie from the last named court, wherever they would lie to an inferior court or officer.

### [ Section 161 ]

The Corporation appealing must give bond to ensure the prompt refunding of all charges, pending the appeal, in excess of those fixed by the final decision of the Court. During the appeal the Company appealing must keep accounts to show amounts charged or received by it during the appeal, in excess of the charge appealed from. It must also keep the names and addresses of the persons to whom such overcharges will be refundable, if the appeal be not sustained.

### [ Section 162 ]

Such appeals as to rates, etc. are given precedence on the docket of the Court of Appeals next after habeas corpus cases, and Commonwealth's cases already on the docket. In such appeal all the facts are certified by the Chairman of the Corporation Commission to the Appellate Court, and that Court shall read and consider the written statement of the reasons given by the Commission upon which the action appealed from was based. The action of the Commission appealed from is to be regarded as *prima facie* correct; but the Court may remand the case to be further investigated by the Commission and reported on to the Court.

### [ Section 163 ]

The finding of the Court of Appeals in the matter appealed from shall be as if entered by the Commission at the time the original order appealed from was entered.



**[ Section 164 ]**

The right of a party to sue a corporation in the Courts is not impaired, but the proceedings, the reasonableness or justness of the rules prescribed by the Commission within the scope of its authority shall not be questioned. Nor shall the matter be heard, if there be objection, during the suspension of the order by the Court of Appeals as provided in the Constitution and laws.

**[ Section 165 ]**

The Commission shall make annual reports to the Governor of its proceedings and recommend needed legislation with reference to the regulation or taxation of corporations.

**[ Section 166 ]**

The Corporation Commission takes the place of the Railway Commission and of the Board of Public Works.

**[ Section 167 ]**

A domestic corporation (one chartered in Virginia) and every foreign corporation (one not chartered in Virginia) doing business within the Commonwealth must pay a small annual registration fee which is irrespective of any specific license tax or franchise tax, and must make a report to the State Corporation Commission as to its business or condition, as provided by law. And a license is necessary before a foreign corporation can do business in this State. But a purely charitable institution may be relieved from the payment of any registration fee. A charter before the present Constitution (1902) which shall be amended is presumed to surrender every exemption from taxation, and all exclusive rights theretofore granted it, and to be held subject to the terms and requirements of the present Constitution.

### [ Section 168 ]

THE RIGHT OF EMINENT DOMAIN (that is the power of the Commonwealth to take property for public uses upon payment therefor) is not abridged, nor shall the Police power of the State be abridged so as to allow corporations to infringe the equal rights of individuals or the well-being of the State.

### [ Section 169 ]

IN THE MATTER OF RATES, no company may charge greater compensation over a shorter than over a longer distance along the same line where the shorter is included in the longer distance. The Corporation Commission may prescribe just and equitable rates between any company and the public to and from junctional or competitive points or localities, or where competition of points without the state makes it necessary that there should be special rates for the protection of the commerce of this State. But this shall not apply to mileage tickets or special excursions or commutation rates when such rates are authorized by the Commission.

### [ Section 170 ]

No member of the General Assembly, nor any State, County, District or Municipal Officer, except the members and officers of the State Corporation Commission for their personal use while in office, shall receive any FREE PASS or FREE TRANSPORTATION or any rebate or reduction in rates under penalty of forfeiting their offices and being subjected to further penalties. But street railway companies may transport policemen and firemen free of charge while in discharge of their official duties.

### [ Section 171 ]

The "FELLOW SERVANT DOCTRINE" (which exempted a corporation from liabilities where one employee

was injured by the default of another of the same grade) is abolished; and all agreements waiving the benefit of the abolishing of the doctrine are declared void. The General Assembly may enlarge the rights and remedies of such employees of railroads or of the employees of any person, firm or corporation.

[ Section 172 ]

All foreign corporations (except those whose lines extend across the boundaries of the Commonwealth) are bound by the laws applicable to domestic corporations where applicable and without discriminating against such foreign corporations. And no foreign public service corporation, without first becoming incorporated under the laws of Virginia, shall acquire, lease, use or operate within this State any public or municipal franchise in addition to such as it may own or lease when the Constitution went into effect.

[ Section 173 ]

The General Assembly is in terms permitted to discriminate against foreign corporations whenever and in whatsoever respect it may deem wise or expedient. And it is declared further in the Constitution that the right of the Commonwealth to prescribe and define the public duties of all common carriers, and public service corporations and to regulate and control them in the performance of their public duties, and to fix and limit their charges therefor, shall never be surrendered nor abridged.

[ Section 174 ]

The General Assembly is required by the Constitution to enact such laws as shall prevent trusts, combinations and monopolies inimical to the public welfare.



### [ Section 175 ]

No railroad shall have the exclusive right to parallel its own or any other line of road, but subject to law a railroad may parallel, intersect, connect with or cross any other railroad; but it may not build or operate any line not specified in its charter or some amendment thereof.

### [ Section 176 ]

All railroad companies whose lines connect are required by the Constitution to receive and transport each other's passengers, freight and loaded or empty cars without delay, and without discrimination. But the General Assembly shall have the right to prevent the parallelling of the Richmond, Fredericksburg and Potomac Railroad. Though such act, if passed, is repealable at the pleasure of the General Assembly. The State owns about one-sixth interest in the last named railroad.

### [ Section 177 ]

Stocks and bonds of corporations are to be regulated as to their issue by similar laws passed by the General Assembly. But a sworn statement in detail verified by the oath of the proper officers must be filed with the State Corporation Commission, specifying and describing the valuation, services, etc. and such corporation shall comply with all other requirements or restrictions imposed by law. Penalties imposed by the General Assembly or authorized by the Constitution for violation of this law, shall be adjudged and enforced by the Commission.

## XV. The State Highway System.

### [ Section 178 ]

THE STATE HIGHWAY COMMISSION consists of five members, one from each of the five geographical divisions of the State, appointed by the Governor subject to confirmation by the Senate, and removable by the Governor. After the first appointments which range from one to

four years, the appointments shall be made for four years. Vacancies are filled by the Governor for the unexpired term effective until fifteen days after the next General Assembly. THE CHAIRMAN OF THE COMMISSION may at the time of appointment be a non-resident of Virginia. If so he shall be accredited to the Grand Division in which Richmond is located. The Chairman must be a practical business man, and is to be designated by the Governor. His title is "Chairman of the Highway Commission." He must devote his entire time and attention to the duties of the office, and his compensation is fixed by the Governor subject to the approval of the Commission. He also receives his travelling expenses while engaged in the discharge of his duties. The other members of the Commission receive ten dollars per day and their actual expenses. The Commission must meet at least once in every three months, and oftener if necessary to transact the business properly before it, upon the call of the Chairman. Three members constitute a quorum for all purposes. The main office is to be in Richmond.

### [ Section 179 ]

ENGINEERS AND EMPLOYEES necessary to carry on the construction and maintenance of the roads embraced in the State Highway System and State aid work of the Department are employed subject to the approval of the Highway Commission. The Chairman of the Commission shall employ such other clerks, assistants and employees as may be needed, and prescribe and fix their duties. Such engineers, clerks, assistants, and employees shall receive such salaries and expenses as may be fixed by the Commission, subject to the approval of the Governor. The Chairman is given discretion to establish such offices in the various construction districts of the State as may be necessary to carry out the provisions of the act.

**[ Section 180 ]**

Oaths of office are required for the faithful discharge of their duties by the members of the Commission, with bonds in a penalty to be fixed by the Governor for such faithful discharge of their duties, and for the full and proper accounting for all public funds coming into their possession, or under their control. The premiums on bonds to be paid out of the State Highway Fund, as are salaries and expenses. All such payments to be upon warrants on the State Treasurer out of funds appropriated for that purpose issued by the Auditor of Public Accounts to those entitled, upon certificates of the Chairman of the State Highway Commission.

**[ Section 181 ]**

The Commission has the following powers: To locate and establish routes to be followed by the roads which make the State Highway system; but where the route is located and established by law no change shall be so made, provided that appeals pending July 1st, 1922 shall be heard by the Commission. It shall not locate and establish any route until thirty days written notice of the proposed action shall have been given to the Clerk of the Circuit Court of the county in which the route, or any part of it, is to be located, and until such notice has been published, at least once in the county paper, or other paper of general circulation in the county, before the proposed action, and until a local hearing has been had by the Commission, if requested. The Clerk of the county upon receipt of the notice must immediately notify the Board of Supervisors, and the local road authorities of the county. A re-hearing of the decision to locate a route shall be heard and determined, if, within thirty days from the filing of the report with the clerk of the county, an application is made by the Board of Supervisors or local road authorities of said county, or by at least fifty free-holders.



### [ Section 182 ]

The Commission shall let all contracts for the building, improvements, and maintenance of the roads of the highway system. It shall make rules and regulations not contrary to the State law for protecting and covering traffic on and use of the State Highway system, which rules and regulations shall have the force of law, whose violation is declared a misdemeanor and punishable upon conviction by fine of not less than five nor more than one hundred dollars for each offence. And the Commonwealth may recover actual damage sustained by reason of a wrongful act, in a civil action brought by the Highway Commission, which amount when collected shall be paid into the State Treasury to the credit of the State Highway Fund. The rules and regulations shall be printed by the Commission and two copies mailed to the Clerk of every Court of Records by whom one copy shall be posted in the office for the information of the public. Such rules and regulations are not to be effective for sixty days after their adoption by the Commission. To enforce these rules and regulations, all of the employees of the Commission may be appointed by it as special policemen with powers of a sheriff. The act in terms, until further action by the Commission, adopted the rules and regulations adopted by the State Highway Commission May 25, 1920.

### [ Section 183 ]

The Commission is to give suitable names to, and may change the names of any highways forming a part of the State Highway system, except those already named or named hereafter by the General Assembly.

### [ Section 184 ]

It has power to comply fully with the provisions of the Federal Aid Acts and to make contracts with the United States Government as to surveys, construction, im-

provement and maintenance of roads under the provisions of Acts of Congress, to submit programs required by the Secretary of Agriculture, and to do all things necessary to cooperate with the Acts of Congress as to rural post roads. It shall keep accurate minutes of all its meetings showing its proceedings in carrying out the provisions of this Act.

### [ Section 185 ]

The Commission is given power beginning with 1922 to add to the State Highway system road mileage not exceeding two and a half per cent of the total mileage of said system each calendar year—not to be cumulative however. At the first meeting after determination to make such addition, an order shall be entered by the Commission on its minute books, setting forth the terminal points, the mileage, the description of the route and the fact that it has been added, and is a part of the State Highway system.

### [ Section 186 ]

The Commission is to gather and tabulate information and statistics on road building, maintenance and improvement, and to publish the same throughout the State through Farmers' Institutes, the Good Roads Association, and the bulletins of the Department of Agriculture.

### [ Section 187 ]

The Chairman of the Highway Commission is given plenary or full powers for constructing, improving and maintaining the roads embraced in the State Highway system, except the powers conferred on the Commission. He is to execute all orders and decisions of the Commission, and to see that employees and appointees perform their duties. He shall as soon as practicable organize a sufficient patrol force to keep the roads embraced in

the Highway system in good condition. He shall supply technical information on road building to any citizen or officer of the State on application, and may recommend to the local road authorities of any county, and to the Governor, needed improvements in the public roads. With the aid and advice of the State Accountant, he shall have installed a complete and modern system of book-keeping for the Highway Department, which shall show in detail all receipts and disbursements, the source of such receipts, and the purpose, amount and recipient of all disbursements.

[ Section 188 ]

The State shall be divided by the Commission into not less than eight CONSTRUCTION DISTRICTS. In each of which, work shall be started at the same time as nearly as possible, and continued therein. The available construction funds for each year shall be allotted or "allocated" by an equitable apportionment among the Construction Districts by the 1st of April of each year. Due announcement shall be made thereof. A public hearing at which the political divisions of the State and interested citizens may be heard, shall be had before the allotments are finally approved.

[ Section 189 ]

CONTRACTS, except in cases of emergency, over five thousand dollars shall be let by the Commission after public advertising for bids, stating the place and time when bidders may examine the plans and specifications and when bids for such work will be opened, etc. at least twenty days prior to the letting. Each bidder must file certified check as a guarantee that if awarded the contract he will begin and do the work, etc. The contract must be let to the lowest responsible bidder, who must give bond to the Commonwealth in the sum of thirty per cent of the estimated cost conditioned upon the faithful performance of the work as specified; the bond to be kept on file in the office



of the Highway Commission. The Commission may reject all bids, and advertise again. All bids are open to inspection at all times as public records. The Commission is given permission to build or maintain any of the roads in the Highway system. The successful contractor must enter into an agreement with the Chairman of the Commission, setting out when the work will begin, be completed, and the time and manner for the payment of the work; and a certain per cent or fixed sum must be retained until after a certain date fixed for the completion and acceptance of the work undertaken.

### [ Section 190 ]

The Chairman is vested with the unusual power of EMINENT DOMAIN (which is the power of the State to take private property for certain public uses upon payment therefor) so far as necessary to the building, alteration, maintenance and repair of the roads in the State Highway system. He may condemn right-of-ways, lands, quarries, and locations, with right of ingress and egress, containing gravel, clay, sand, stone, rock, timber and other road material useful or necessary in carrying out the purposes mentioned.

### [ Section 191 ]

CONDEMNATION PROCEEDINGS shall be instituted and conducted in the name of the Chairman of the Highway Commission as in similar proceedings for railroad corporations and as provided under the general laws of the State as far as applicable to the subject of road building. Such proceedings shall be by petition to the Circuit Court of the county where the land lies, or to the judge in vacation. There must be a reasonable description of the interests, rights, and property intended to be taken, the name of the land owner, and such other facts as may be deemed necessary by the Chairman to give full information to the Court, and all persons interested. To be certified to by the Chairman or his duly authorized agent or attorney.

### [ Section 192 ]

Upon the return of the report of viewers appointed, the sums ascertained shall be paid to those entitled, or for them into Court or to the Clerk. And the title and rights condemned vest in the Commonwealth in fee simple, or as prayed in the petition, and the Chairman may then enter upon or use the property and rights condemned. But the property owner or Chairman may appeal to the Circuit Court, on exception to the report, on the question only of damages or compensation.

### [ Section 193 ]

From the most convenient lands, wood, stone, gravel, earth or other material necessary in the construction, reconstruction and maintenance of any roads and bridges embraced in the State Highway system may be taken by the Chairman without the institution of condemnation proceedings. The owner or tenant, and the Chairman or his agent may agree as to the amount of damage caused by the taking and such damage shall be paid. In case of disagreement, a justice of the peace in the county where the land is, may, upon application by the owner or tenant may summons three free holders of said county, who after being sworn shall view the land, and ascertain and report to the Chairman or his agent the just compensation to the owner or tenant for the damage done by such taking. The Chairman may allow the full amount or any part that may seem reasonable; but the owner or tenant has the right of appeal to the Circuit Court of the county where the land lies.

### [ Section 194 ]

Should any part of the law be declared unconstitutional the other part shall remain in force.

### [ Section 195 ]

The highway system is the creature of statute, not being a constitutional creation, and therefore, is liable to be changed at any time at the pleasure of the General Assembly.

### [ Section 196 ]

All of its revenue passes through the auditing department of the government, and it is therefore always possible for those interested to know the amounts received and expended for the highway system. Sometimes confusion arises in the minds of those unacquainted with the methods of government because of the inability or the divergence of opinion of good men to foretell what the future has in store for the highway system upon the adoption of some plan for raising revenue.

### [ Section 197 ]

Some recall the fact that in 1871, under the "Consol Act" after setting aside as West Virginia's share one-third of the debt of the Commonwealth made for internal improvements, the State assumed to pay thirty millions at six per cent interest per annum which took \$1,800,000 out of a gross annual State revenue of \$2,800,000, and that this effort at the impossible had resulted in the futile acts of 1872 known as the Peeler Act, of 1879 known as the Ten-Forty Act, of 1882 known as the Riddleberger Act; and that only under the Act of 1892, had the ship of State been righted and able to sail on an even keel when there was a bond issue of a hundred years with two per cent for the first ten years, and three per cent for the next ninety years based upon the surrender of twenty-eight six per cent bonds, for nineteen of such new two-threes to be non tax receivable coupon bonds and the further assumption of nine millions of three per cent (known as Riddleberger bonds), then payable within forty years, from such Century Act. They re-



call that after nearly a century of bond issues there have been repaid fewer than twenty millions of principal, and that there is still due and unpaid more than twenty millions, which requires nearly a million dollars annually in interest and sinking fund.

### [ Section 198 ]

Those who advocate an issue of bonds for the purpose of highway construction point to the fact that the Civil War and the revolution, which followed it, were responsible and not the plan which the old State adopted and which they now advocate.

### [ Section 199 ]

For the year ending September 30th, 1923, the total resources of the State Highway Department were twelve million, six hundred and seventy-six thousand, eight hundred and eighty one dollars (\$12,676,881) and the total expenditures for the same period by the Highway Department were ten million, five hundred and fifty-eight thousand, five hundred and seventy-six dollars (\$10,558,576.) The balance—more than two million—being applicable to the various specified objects mentioned in the Report of the Auditor of Public Accounts, subject to the disposal therefor by the Highway Department.

### [ Section 200 ]

THE CHAIRMAN may also enter and take possession of such rights of way for the purposes mentioned, as he may deem necessary, and proceed with the construction of such highways.

### [ Section 201 ]

If the chairman and the owner of such lands cannot agree within sixty days after the completion of the construction of such highway, as to compensation and dam-

ages, if any, caused thereby, the chairman shall institute condemnation proceedings and such amount so ascertained shall be paid the owner out of the State highway fund. Before entering upon the land for construction purposes, the chairman shall pay the land owner or shall pay into court for his benefit the amount he estimates a fair value of the land taken, and damage done. But this shall not limit the amount to be allowed under proper proceedings. The object of the last provision is that such rights of way may in the discretion of the chairman of the Highway Commission be condemned after the construction of the highway as well as beforehand. The authorities are to use due diligence to protect growing crops, and pastures and to prevent damage to property not taken. As far as possible, all rights of way shall be acquired, or contracted, for before any route is definitely located. In any road not under construction when the act of March 24, 1922, goes into effect the chairman of the Highway Commission shall not invade the dwelling house of any person nor any space within sixty yards of it, without the consent of the owner, unless it be decided by the court, confirming the report of the viewers (appointed to ascertain the value of the land or other property to be taken), that it will be otherwise impracticable without unreasonable expense to construct the road.

### [ Section 202 ]

Detour roads, by the most practical route, are required of the chairman. They must be kept in good repair, and explicit directions given the travelling public while the highway is being repaired or the road is being built. As far as practicable, existing roads shall be connected and used for such detours. The Chairman is authorized to make agreements with the local road authorities where the construction work is being done to pay any part or all of the cost of laying out and maintaining the detours from the State highway fund. For the proper completion of the work done, the chairman may close to public travel any portion

or all of any road or highway, and put up suitable barriers and post warning signs and conspicuous notices that such roads and highways or portions thereof are closed to the public. The willful destruction or removing of barriers, or the driving into new construction work, or the removal or destruction of any notices or the extinguishing of any warning lights or lanterns, erected, posted or placed, is made a misdemeanor and punishable by fine.

### [ Section 203 ]

A written report, annually and at other times when requested by the Governor, must be made by the State Highway Commission to the Governor on or before the 1st day of December in each year, giving the acts and doings of the preceding year. It shall contain recommendations as to changes and as to road legislation deemed proper. The annual report of the chairman must be appended to every such report, containing a detailed statement of the work, done by him during the preceding year, with an itemized account of all expenditures for the same period. All of which shall be biennially transmitted by the Governor to each House of the General Assembly after the opening of the regular session.

### [ Section 204 ]

The next report of the Auditor of Public Accouts will show what sums have been received from the gasoline tax of three cents on the gallon instituted July 1st, 1923, until which time the saying of a wise man may be cited, "he who maps an undiscovered country may fix what boundaries he will."

### [ Section 205 ]

THE BUREAU OF INSURANCE is within and subject to the Department of the State Corporation Commission. The Bureau is charged with the execution of all laws rela-



tive to insurance and guarantee or indemnity companies, fraternal orders and beneficiary societies, as well as to all orders etc., domestic, foreign and alien.

### [ Section 206 ]

The chief officer of 'the Bureau of Insurance of Virginia' is known as "The Commissioner of Insurance." His term is four years, to which he is elected by the joint vote of the General Assembly, and the Corporation Commission must assign him suitable offices in Richmond for the conduct of the Bureau. He must give bond in the penalty of \$10,000. with security approved by the Corporation Commission for the faithful performance of his duties, and must qualify or take the oath before the Commission, which bond and oath are filed in the office and re-recorded on the minutes of the Commission's proceedings. A deputy commissioner is appointed by the Commissioner who may remove him; other necessary clerical force is also thus appointed. The deputy commissioner gives bond in the penalty of \$5,000., takes oath for the faithful performance and performs the duties of his principal in his absence, inability or suspension, and during a vacancy in that office. The Commissioner is responsible for the acts of his deputy and fixes his salary. In case of a vacancy in the office of the Commissioner and his deputy during the recess of the General Assembly, the State Corporation Commission shall appoint until thirty days after the convening of the next General Assembly a Commissioner of Insurance.

### [ Section 207 ]

The salaries and expenses of the Bureau of Insurance are paid out of the public treasury unless provided otherwise by law, upon the order of the State Corporation Commission, and necessary printing is done by the public printer upon order of such Commission.

**[ Section 208 ]**

THE COMMISSIONER OF INSURANCE is charged with certain duties which formerly were imposed upon the Auditor of Public Accounts, and all the papers, reports and documents shall be and remain in the charge of the Bureau of Insurance. Such Commissioner, when he deems it necessary for the protection of the policyholders, or of the State, city or town, or of any corporation, may make an examination of the affairs and financial condition of any company doing business in this State, and shall have free access to the books and papers, and may summon witnesses and examine under oath the officers and agents of the company, or any other person as to its affairs and condition. The expenses to be paid, unless remitted by the Commissioner of Insurance, by the corporation examined.

**[ Section 209 ]**

Under certain conditions, such examination may be dispensed with, as where a sufficient examination has been made by the State or county where the principal office is located, and the solvency of the company is beyond reasonable doubt.

**[ Section 210 ]**

The Commissioner of Insurance under the seal of the Bureau of Insurance grants licenses to foreign or alien companies and certificates of authority to domestic companies to transact business in this State. And no such license is granted unless the law has been complied with, and the annual taxes and charges prescribed have been paid.

**[ Section 211 ]**

If companies are insolvent or violating the law, the licenses are revoked, upon report made to the State Corporation Commission by the Commissioner of Insurance, which report shall not be divulged except upon order of the

said Corporation Commission. The company may appeal to the Supreme Court of Appeals in certain cases, from the action of the State Corporation Commission.

### [ Section 212 ]

Printed reports of the Commissioner of Insurance are made annually showing the taxes and fees collected by him from all sources and paid into the public State Treasury. He shall keep a record in his office of all fires occurring in the State, and all the facts, statistics and circumstances, including the origin of the fires which have been determined upon investigation of such fires. The chief of the fire departments in the cities and towns, and sheriff of the counties, shall report within five days all fires and the circumstances thereof. A fee of one dollar is allowed for such report, to be paid out of the public treasury upon certificate of the Commissioner of Insurance.

### [ Section 213 ]

The Commissioner of Insurance at the request of any company may examine into the origin of fires; but the company must pay the necessary expenses thereof. He, or his agent, at all times of day in the performance of their duties may enter upon and examine any premises when any fire has occurred, and also adjoining buildings if not used as a dwelling. He shall report the crime of arson to the Commonwealth's Attorney with the names of witnesses, etc., including a copy of all pertinent and material testimony taken by him therein. He has the powers of a trial justice in certain matters, and can summon and compel the attendance of witnesses in the matter of his investigation. He may make such investigations in private, and separate witnesses testifying, in his discretion.

### [ Section 214 ]

The Commissioner may correct at any time upon complaint in writing the inflammable condition of any build-



ing or premises not occupied as a dwelling, and order the same removed or remedied within a reasonable time.

### [ Section 215 ]

The expenses of the Bureau of Insurance are assessable annually against the companies, foreign, alien and domestic doing business in this State. Fraternal Benefit orders and societies are excepted.. The rate not to exceed one-tenth of one per cent on the gross amount of the premiums, assessments, etc. Notice is required of such assessments, and penalties are allowed in case of non-compliance, recoverable by motion against the defaulting company in the Circuit Court of the City of Richmond after ten days notice.

### [ Section 216 ]

Each of such companies shall make an annual report of their gross premiums, etc., to the Bureau of Insurance upon forms furnished by the Commissioner of Insurance.

### [ Section 217 ]

The Commissioner shall keep accurate accounts of all money received by him and expended and shall make report to the Auditor of Public Accounts and pay the amount of his collections into the treasury of the Commonwealth at least once in every thirty days.

### [ Section 218 ]

He shall investigate complaints as to excessive rates for insurance, and make report of his investigations to each General Assembly.

### [ Section 219 ]

He shall make detailed reports and recommendations to the General Assembly as to legislation governing the

class of corporations put under control of the Bureau of Insurance.

[ Section 220 ]

For the year ending February 28th, 1923, there was paid out of "the Bureau of Insurance Fund" and no part out of the General fund of the State Treasury, for the Bureau of Insurance \$48,875.00, of which the Commissioner of Insurance received \$5,000.

[ Section 221 ]

For the year ending April 30, 1923, there was paid into the treasury from license tax previously assessed against insurance companies, insurance brokers, etc, by the Bureau of Insurance under the State Corporation Commission, the sum of \$945,467.65.

[ Section 222 ]

THE BANKING DIVISION.

The banking system of Virginia, as is well known, consists of the National and the State banks. The former is governed by acts of Congress, and the latter by State statutes. There is a provision in the State Constitution that shares of stock issued by trust companies or security companies chartered by this State, and by incorporated banks shall be taxed in the same manner in which the shares of incorporated banks were taxed by law on January 1, 1902; but from the total assessed value of shares of stock of any such company or bank there shall be deducted the assessed value of its real estate, otherwise taxed in this State, and the value of each share of stock shall bear its proportion of the remainder.

[ Section 223 ]

Provision is made for the incorporation of State Banks (including savings banks, savings societies and savings

institutions) which after compliance with the statutes are subject to the order of the State Corporation Commission, who have the final determination in the matter. The charter after recordation as required is finally lodged and preserved in the office of the Clerk of the Commission. The Commission may not issue a charter to a Bank with a minimum capital stock of less than \$25,000, except that banks with a capital stock of not less than \$15,000 may be chartered in any place where the population does not exceed two thousand.

### [ Section 224 ]

Trust Companies are also provided for in the law. To begin business a bank must have at least fifteen thousand dollars of its capital stock actually paid in money. Branch Banks are authorized and the business is put under the Corporation Commission. The kind of a business banks may do it set out in the statute, and their limitations fixed. Statements must be rendered to the State Corporation Commission upon duly arranged forms. The Commission is required to examine not less than twice a year and close banks if necessary, and upon notice by the Commission to the Auditor of Public Accounts and to the Treasurer of the State further deposits of State funds shall be discontinued in any bank which is insolvent, etc.

### [ Section 225 ]

The State Corporation Commission shall appoint a chief examiner and such assistants, etc., as it may deem necessary for the examination of banks. Such examiners to be citizens of Virginia, experienced bookkeepers of five years service in some bank. The salaries to be fixed by the State Corporation Commission. Such examiners to give bond in the penalty of \$5,000., for the faithful performance of their duties. Every bank must pay for its semi-annual examination. The fees are fixed by the Statute, being based upon the total resources of the bank rang-



ing from twenty-five dollars to two hundred and seventy-five dollars. For each branch bank the fee shall be from twenty dollars to fifty dollars. Assessments are also made for the examiner of National Banks which are state depositories. Such assessments have to be forwarded to the Auditor of Public Accounts by the Corporation Commission. Trust companies to be incorporated must have at least fifty thousand dollars of paid up capital.

### [ Section 226 ]

For the year ending September 30, 1922, there was assessed and paid by the Banks into the Treasury as required by law and put to the credit of "Banking Fund State Corporation Commission," the sum of forty-three thousand and seventy-four and ninety-eight one hundredth dollars (\$43,074.98). No part of the appropriation can be paid out of the general fund in the Treasury. The Chief Bank Examiner gets \$4,000.00 and the seven assistant examiners, clerks and stenographers and other expenses are paid out of the residue.

### [ Section 227 ]

#### THE STATE BOARD OF HEALTH:

The Public Health of the Commonwealth is placed by Statute under a State Board and Local Boards. The State Board consists of seven members, appointed by the Governor (at least two from the State Medical Society) one from each grand division, and two from the State at large. They serve seven years each after the first appointment. One shall be a member of the State Dental Association. Three members constitute a quorum. The Board must meet annually in Richmond, and elsewhere as often as it may determine.

**[ Section 228 ]**

The Governor shall appoint a Health Commissioner well versed in bacteriology and sanitary science, and otherwise fitted and equipped for the duties of his office. He is the executive officer of the State Board of Health; but cannot be a member of the Board. He receives a salary of five thousand dollars per annum. His term is for four years, and he must reside in Richmond. He must perform such duties as the Board requires in addition to those required by law. He is vested with the authority of the Board when not in session, and is subject to its rules and regulations. The Health Commissioner appoints, with the approval of the State Board of Health, an assistant Commissioner and other clerks and assistants.

The State Board of Health is given power to make and enforce reasonable rules for sanitation and disinfection of passenger cars, sleeping cars, steamboats and other vehicles of transportation in this State, and of all convict camps, penitentiaries, jails, hotels, schools and other places used by and open to the public; to provide for the care, segregation and isolation of persons having or suspected of having any communicable, contagious, or infectious disease; to regulate the disposition of garbage or sewage, and any other refuse matter in or near any incorporated town, city or unincorporated town or village in this State; to provide for the thorough investigation and study of the causes of all diseases, epidemics, etc. in this State and the means for the prevention of contagious diseases; and for the publication and distribution of such information as may contribute to the public health, and the prevention of disease; to make rules to meet any emergency not provided for, to suppress nuisances, diseases and other things dangerous to the public health and life; but a segregated or isolated person may select his own method of treatment. A person who violates, or refuses, or neglects to comply with any rule of the State Board of Health shall be guilty of a misdemeanor.

### [ Section 229 ]

The State Board of Health receives a per diem of eight dollars each for the time actually engaged in the discharge of their duties, and the mileage prescribed by law. It must establish necessary laboratories for the examination of clinical material submitted by members of the Medical profession of the State, such examinations to be made free of charge. It shall make research as to infectious diseases, epidemics, etc. and as to the methods of preventing and curing diseases. It must make enquiry and determine the most suitable location for the treatment of tuberculosis, and for the establishment of tubercular sanitariums, and as to the best methods of treatment with a view to preventing and curing such diseases. It must equip and maintain temporary or permanent buildings for the treatment of such diseases in the State at a minimum expense to the patient.

### [ Section 230 ]

The Local Board of Health consists of three citizens of which one must be a regularly licensed physician of each county or corporation appointed annually by the State Board of Health, and the county clerk and chairman of the Board of Supervisors, or the Mayor of the Corporation. The Chairman of the Board of Supervisors shall be President of the County Health Board and the Mayor of such city or town Board. Where the charter of a city or town provides differently, this section shall not apply. Such local Boards shall have charge of the sanitary affairs of their localities, and control the preventing of diseases, and the removal and quarantine of suspects. They may provide for compulsory vaccination, and the restriction and care of small pox and other contagious or infectious diseases. They may with the consent of the Board of Supervisors of the counties, or of the Councils of the town or city, fix the compensation for those employed in discharging duties as to the abatement of nuisances, etc.



**[ Section 231 ]**

The Local Board of Health may adopt reasonable rules and regulations and enforce the same. There must be a publication of them for two successive weeks in a newspaper if there be one in the county, and if not they must be posted for two weeks at the County Court House, and in three different places in each Magisterial District; but in case of epidemics, the rules and regulations for suppressing them becomes effective immediately.

If the Local Board of Health is not appointed in any county, city or town the State Board of Health may exercise the authority and perform the duties of such Local Board until regularly appointed; the expenses to be borne by the county, city or town. The State Board of Health, in case of emergency, after conference with the Local Boards, and after failure on the part of the Local Boards to carry out the suggestions made after such conference, is given the right to assume exclusive control of the disease, as to isolation, quarantine, etc. The Secretary of the State Board of Health as executive officer shall stop at the State line, the transit through the Commonwealth of infected persons, goods or animals, or if found within the Commonwealth shall cause the same to be removed from car, stages, vessels or conveyances, and isolated and disinfected. But he shall only act in case the municipal Health authorities or the State Quarantine Board have failed in their duty. And he shall act subject to the State Board of Health.

**[ Section 232 ]**

Vital Statistics must be furnished periodically to the State Board of Health by the Local Boards as the State Board may prescribe. The State Board of Health must furnish annually a written report to the Governor upon the vital statistics, and sanitary conditions and prospects of the Commonwealth. It must give useful information and a detailed statement of money paid out. It must also

suggest any further legislative action to the General Assembly.

[ Section 233 ]

Persons who are infected with any dangerous contagious or infectious disease, or who have recently had such disease without being cleansed are forbidden to go into the company of any one liable to take the disease; nor shall they go into public places or buildings. Persons voluntarily exposed to contagious diseases are forbidden to come into the State or go from place to place therein within fifteen days of such exposure, unless they have the certificate of a competent and reputable practicing physician that there is no danger from such persons.

[ Section 234 ]

Board of Supervisors or Councils or Governing bodies of localities, may on the advice of the State or Local Board of Health, appropriate money to convey to and maintain at any of the State's Sanitoriums any indigent persons known to be suffering with tuberculosis, residents of such locality for at least twelve months.

[ Section 235 ]

Provision is made for the establishment of a sanatorium upon a vote in each county, city or town favoring the same. And without such vote a county and town or city, or counties and towns and cities may establish such an institution under the joint management of the contributing localities.

[ Section 236 ]

A Bureau of Vital Statistics is established and the State Board of Health is required to register the births and deaths in the Commonwealth, and to make report thereof. It shall appoint a Registrar of vital statistics and

fix his salary. It is now \$3,000. It shall provide suitable apartments for the Bureau in Richmond, and equip the same with fire proof vaults and filing cases. The State shall be divided into Registration Districts. Each city, town and Magisterial District shall constitute such District, though two or more of such districts may be combined by the State Registrar. He shall appoint a local Registrar, if a Justice of the Peace, or the executive officer of the Local Board of Health of the city or town fails or refuses to act. The duty of the Registrar is to record the births and deaths in his district upon forms provided by the State Board of Health and report the same.

### [ Section 237 ]

There was expended by the State Board of Health for the year ending September 30, 1922, the sum of two hundred and forty-seven thousand, four hundred and sixty-seven and forty-two one-hundredth dollars (\$247,467.42); of which twenty-two thousand, eight hundred and fifty-five and nineteen one-hundredths dollars (\$22,855.19) was for vital statistics, and one hundred and ninety-one thousand, three hundred and fifty and nineteen one-hundredth dollars (\$191,350.19) was the tuberculosis fund, special tax of one cent (Acts of 1918, Chapter 384.)

## THE MILITARY:

### [ Section 238 ]

The only reference to the State's Military Department found in the State Constitution is that in the Bill of Rights, which declares that a well-regulated militia is the proper defense of a free state; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases, the military should be under strict subordination to and governed by the civic power. The Constitution also makes the Governor Commander-in-Chief of the land and naval forces of the State, and except in time of war, and public danger, no voter, during the time of hold-



ing any election at which he is entitled to vote, shall be compelled to perform military service.

[ Section 239 ]

The Adjutant-General, who holds office during the term of the Governor, is appointed by the Governor and is the technical head of the State Militia. He is ex-officio a member of the Board of Visitors of the Virginia Military Institute. The Governor and the Adjutant-General, the Senior Officer of Volunteers, and an appointee of the Governor and the Secretary of the Commonwealth constitute the "Military Board" on whose order the Auditor of Public Accounts pays sums payable out of the Military Fund.

[ Section 240 ]

The Militia since the World War has been largely under the control of the Federal authorities. It is known as a part of the National Guard, and is largely under regulation of the United States Secretary of War. There are state laws with reference to the State's Council of Defense, with reference to the appointment of Staff officers in the National Guard, and for the organization of home guard companies. The Governor has authority to appoint thirty members of his staff with rank of Colonel; but no expense is to be paid out of the public fund. By the Act of the General Assembly Home Guard Companies may be organized, who are not subject to, and those who are exempt from military duty by the laws of this State and of the United States; but any portion of any organization which violates any law of the State or of the United States may be disbanded by the Governor.

## XVI. The Prohibition Department.

[ Section 241 ]

What is known as the Prohibition Law in Virginia is regulated by the Eighteenth Amendment to the Constitu-

tion of the United States, which became a law by the proclamation dated the 29th day of January, 1919, which certified it as valid as a part of the Constitution of the United States, such amendment having become a law by the ratification of the necessary three-fourths of the whole number of states including Virginia. The Eighteenth Amendment forbids the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage (drinking) purposes. Congress and the states have concurrent power to enforce this article by appropriate legislation. Congress has passed a National Prohibition Act, and provided for its execution in detail.

### [ Section 242 ]

The General Assembly has passed an act of prohibition, and put the same under the Attorney-General for its enforcement, and appropriates funds therefor; though nothing in the act is to be construed as taking away from the Commonwealth's Attorneys, Sheriffs or other officers charged with the enforcement of the prohibition laws of the State, any of their powers, or as relieving them from their duties and responsibilities in connection with the enforcement of the prohibition laws.

### [ Section 243 ]

An accused may be punished for two distinct offenses for the same act, one against the United States, and one against the State. No person is excused from testifying for the Commonwealth as to an offense committed by another under the Prohibition Act, because of his testimony tending to incriminate himself; but such testimony on behalf of the Commonwealth shall not be used against him, nor shall he be prosecuted as to the offense as to which he testified.

### [ Section 244 ]

Both the United States and the State have made the law as drastic as the English language can make it, to prevent the manufacture, transportation, sale, keeping or storing for sale, advertising, or exposing for sale, receiving, giving away or dispensing ardent spirits, and have provided adequate penalties. And cities and towns may pass ordinances to the same effect, except that the punishment under such ordinances is by fine and imprisonment in jail with the right to make the prisoner work out the term of his confinement on the public roads of the State.

### [ Section 245 ]

Whenever the Prohibition Act is violated and upon the trial, it shall appear to the Court trying the case that there has been no intentional violation of any provision thereof, the Court shall instruct the jury that they may not impose a jail sentence. This is where the penalty is fine and imprisonment.

### [ Section 246 ]

The manufacture of wine or cider from fruit of his own raising for his domestic consumption at his home, but not to be sold, dispensed or given away, is not forbidden; nor is the manufacture from fruit of cider for vinegar, not for a beverage; nor of non-intoxicating cider containing not more than one per cent of alcohol by volume for use or sale.

### [ Section 247 ]

Wholesale and retail druggists may sell pure grain and fruit alcohol for scientific, pharmaceutical, and mechanical purposes. They may also sell wine for sacramental purposes. Certain advertisements of the manufacture, sale, etc. of ardent spirits are forbidden. Banks are forbidden to handle drafts, bills of lading or orders or receipts



for ardent spirits. Nor shall the agents of common carriers receive orders or collect money, etc., for ardent spirits. All unregistered stills are prohibited, and all persons found at a distillery where whiskey, beer or other ardent spirits are being manufactured shall be deemed *prima facie* guilty of manufacturing, or aiding and abetting therein, and punishable upon conviction, as if manufacturing. The finding of ardent spirits, or of a United States liquor dealers tax receipt in any place is *prima facie* evidence against the person occupying the premises, or named in the tax receipt. No minor is allowed to have ardent spirits in his possession. Persons of intemperate habits are required to disclose from whom they obtain ardent spirits, under penalty of being fined and imprisoned. The State is given the right of appeal in all prohibition cases, not forbidden by the Constitution.

### [ Section 248 ]

Any person is intoxicated within the meaning of the prohibition act when he has drunk enough to affect his manner, disposition, speech, muscular movement, general appearance or behaviour as to be apparent to observation.

### [ Section 249 ]

To enforce the prohibition laws of the State, Chiefs of Police, Police Boards, Police Justices, Special Officers, Sheriffs, Commonwealth's Attorneys, Deputies, Constables, and Justices of the Peace of Counties and Cities, and all Mayors, Sergeants and their Deputies are all called upon and any neglect or failure on their part is misfeasance in office.

### [ Section 250 ]

Vehicles in which ardent spirits are being transported are to be seized and forfeited, and provision is made for the disposition of the ardent spirits, and for the arrest of the occupants of such vehicles. The burden of proof is

put upon any person prosecuted under this act to show that he comes within the exceptions thereto.

[ Section 251 ]

The Prohibition Act is deemed an exercise of the police power of the State, and all its provisions shall be liberally construed to affect these objects.

BUREAU OF LABOR AND INDUSTRY

[ Section 252 ]

The Bureau of Labor and Industry is a creature of the Statute. The only reference to it in the Constitution is the provision prohibiting the General Assembly from enacting any local, special or private law in regulating labor, trade, mining or manufacturing. The Bureau is continued by the new Code. It was established by the act found in Acts of 1897-98, page 894. The Governor, with the consent of the Senate, appoints some suitable person identified with the labor interests of the State as Commissioner of Labor. He must furnish the Governor the information desired with reference to labor. His duties and powers are defined by law. He has general supervision and control of his Bureau, and is designated in connection therewith as "the Chief Factory Inspector." He and his assistants must visit at reasonable hours and inspect as often as practicable factories, mills, mercantile establishments, workshops, etc. within the state, and he must make a written report to the Governor on the 15th day of September annually, giving the results of his inspections, with such other information and recommendations as he may deem proper. He must enforce the law, and prosecute all violations thereof relating to said factories, etc. before a Justice of the Peace or Court of competent jurisdiction. The Commonwealth's Attorney of the county or city must prosecute any violations of such laws upon request by the Chief Factory Inspector or his assistant or deputy. All State and local officials must furnish the Com-

missioner of Labor, upon his request, with such statistical information as may be in their possession as such officers.

### [ Section 253 ]

Every advertising employment agency must keep a register in the form prescribed by the Commissioner of Labor in which shall be entered the age, sex, nativity, trade or occupation, name and address of applicant. There shall also be entered therein the name and address of every person who shall apply for help or servants, and the name and nature of the employment to be had. After thirty days, if applicant has not obtained a situation through such agency, the fee charged the applicant shall be returned in full. Certain improper employments are forbidden in the statute. Punishments are provided for violation of the law. Within the provisions of the law are those requiring employers to provide seats for female employees—one for every three employees—those regulating the hours of labor of women in factories, etc., and of children under certain ages; those giving protection to discharged employees to be paid in lawful money, etc.; those applying to sanitary arrangements, safety appliances, ventilation, wash rooms, etc.

### [ Section 254 ]

The right of appeal from the order of the Commissioner of Labor to the Circuit Court of the county or corporation is reserved to any party interested.

The Department of Mines is put under the control of the Bureau of Labor and Statistics. Provision is made for Inspectors of mines, who shall have a thorough knowledge of the different systems of working and ventilating coal mines, and of the nature of mine gases, especially explosive gas and dust. The Inspector is appointed and removable by the Commissioner of Labor for cause. He must have had five years experience at and in coal mines and be of good moral character and temperate habits.



### [ Section 255 ]

A Certificate of Inspection shall be delivered to the operator of any such mine inspected, and a duplicate certificate shall be posted where it may be conveniently read by any of the mine employees. Such mine to be visited once in six months. Maps of mines shall be made, showing openings, shafts, entries and airways, and a true copy delivered by the operator to the mine inspector to be preserved, but not copied, among the records of the Bureau of Labor, etc. Inexperienced laborers must be instructed by the mine foreman before beginning work as to the extraordinary danger incident to his work. Inspection of machinery and appliances is required. "Fire bosses" are required in mines known to generate fire damp or other dangerous gas. Safety lamps are required in certain cases. Mine foremen with specified duties are required in certain cases, who shall make daily visits and examinations to secure safety. Inspectors may close mines improperly protected. Penalties are provided for violation of the laws. No mine foreman is required where fewer than ten persons are employed.

### [ Section 256 ]

The Commissioner of Labor, who is appointed for two years, receives \$3,600.00 per annum, and there was appropriated by the General Assembly of 1922 for the use of his Bureau, and for inspection of factories, mines, etc. the sum of thirty-two thousand, seven hundred and forty dollars.

## THE INDUSTRIAL COMMISSION.

### [ Section 257 ]

By the Act of 1918, known as "The Virginia Workman's Compensation Act", the Industrial Commission was established, to consist of three members appointed by the Governor for six years, except that at first the term of one

member shall be for two, another for four, and the third for six years. Not more than one member shall be classified from previous vocation, as representative of employers, or of employees. The Commission shall elect its own Chairman, and each member must devote his entire time to the duties of the office, nor accept any occupation inconsistent with his duties as member of the Commission.

### [ Section 258 ]

The salary of each Commissioner is \$4,000. per annum, and of its secretary, not more than \$3,000. The last named officer is appointed and may be removed by the Commission. Other employees and assistants may be appointed and their salaries fixed subject to the approval of the Governor.

### [ Section 259 ]

The Commission shall make rules in accordance with the provisions of the Act for the purpose of carrying out those provisions. Its processes and procedure to be as summary and simple as possible. It or any person deputized by it is given power to subpoena witnesses, administer oaths, and examine such parts of books and records of parties to a proceeding as relate to disputed questions before it. Local officers of the courts, sheriffs and sergeants and their deputies shall serve process, and receive the same fees as are allowed by law in like civil actions. Witnesses are allowed the same fees and mileage when duly summoned as are allowed witnesses in civil cases in court. Authority is given the Commission or any member or deputy Commissioner, to enforce attendance of parties in interest, and witnesses, and the production and examination of books, paper and records, such as existed in the circuit courts.

### [ Section 260 ]

The reason for the existence of the Industrial Commission is that it may enforce the Workman's Compensation

tion Act, which according to its title was passed to prevent industrial accidents; to provide medical and surgical care for injured employees; to establish rates of compensation for personal injuries, or deaths sustained by employees in the course of employment; to provide methods for ensuring the payment of such compensation; and to levy a tax and appropriate funds for the administration of the Act.

### [ Section 261 ]

The Act defines who are employers, who employees, what is an injury or personal injury, within its meaning, what average weekly wages mean, and what is hernia. All employers and employees are presumed to have accepted the terms of the Act, as to paying or accepting compensation for personal injury, or death by accident arising out of or in the course of employment, unless they shall have given notice to the contrary prior to any accident in the way provided by the Act. Though the waiver of such notice is provided for; and that, and the acceptance of such waiver, must be given thirty days before any accident resulting in injury or death as above set forth. If the accident occurs within thirty days after the date of the employment, notice of such exemption or acceptance given at the time of employment is sufficient. Such notice must be in writing or print in form substantially prescribed by the Industrial Commission; by the employer, by its being posted in a conspicuous place in the shop, etc. where the employee is employed, or by serving it personally upon him; and by the employee, by its being sent in a registered letter addressed to the employer at his last known residence or place of business, or by giving it personally to the employer or any of his agents who by law may be served with a summons in a civil action. A copy of the notice in prescribed form must be filed with the Industrial Commission. Since the Act was passed, every contract of service between employer and employee, then in operation, or made subsequently, shall be presumed made subject to its



provisions, unless notice be given that the provisions do not apply (other than those which relate to the waiver of negligence, and to the requirements that the employer shall keep records of injuries, etc.)

### [ Section 262 ]

If an employer chooses not to operate under the Workman's Compensation Act when a suit is brought against him by an employee subject to the Act for injuries, etc. he shall not plead in defense thereto: (a) that the employee was negligent; (b) or that the injury was caused by the negligence of a fellow-employee; (c) or that the employee assumed the risk of the injury.

### [ Section 263 ]

If an employee chooses not to operate under the Act and brings an action at common law against an employer for injuries, etc. accepting the provisions of this Act, the employer may plead the defenses above, (a), (b), and (c) as they exist at common law.

### [ Section 264 ]

If both employer and employee choose not to operate under the Act, the liability of the employer shall be as if he alone rejected the terms of the Act, and he shall not be permitted in any suit brought by the employee to avail himself of the common law defenses (a), (b) and (c) above mentioned.

### [ Section 265 ]

Compromises and settlements between employer and employees are encouraged by the Act; but a copy of the settlement agreement, showing that the compensation, and the time and manner of payment are in accordance with the Act must be filed by the employer with the Commission.

**[ Section 266 ]**

Provision is made for the liability of a sub-contractor to an employee in a proper case. Compensation allowed, stands against the employer as to priorities in the class with unpaid wages. Claims for damages, under this Act, are not assignable, and are exempt from claims of creditors. Notice of accidents must be duly given as required by the statute, to entitle an employee to physician's fees or to compensation accrued prior to the notice, until it is shown that knowledge of the accident was in possession of the employer or his agent, or that the party required to give notice was prevented from so doing by physical or mental incapacity, or by the fraud or deceit of some third party. Absence of a written notice to the Commission therefor, and unless it be shown that the employer is not prejudiced thereby, is fatal to recovery.

**[ Section 267 ]**

The notice must state in ordinary language the name and address of employee, the time, place, nature and cause of the accident, and the resulting injuries, or death, signed by the employee, or by one for him, and in case of death, signed by one dependent on him or by some other person in their behalf.

**[ Section 268 ]**

To be valid the claim must be filed before the Industrial Commission within one year of the accident, or if death ensues, within one year thereafter. The employer must provide, free of charge to the injured employee, necessary medical attention for sixty days after the accident, and the employee shall accept such services when provided. If any emergency arises, because of the employer's not supplying medical care during the first sixty days, or for other good reasons, another physician may be called, whose reasonable charges shall be paid by the employer when ordered so to do by the Commission. Physical examina-

tions shall be submitted to by the employee if requested by the employer to be paid for by the employer or by the Commission. The employee has the right to have present at the time a qualified physician or surgeon provided and paid by him; and in case of death, an autopsy is allowed upon payment therefor by the employer or the Commission.

### [ Section 269 ]

A graduated compensation is allowed according to the loss of a limb or member of the body, ranging from one-half of the average weekly wages for sixty weeks, for the loss of a thumb, to one-half of the same for one hundred and seventy-five weeks for the loss of a leg.

### [ Section 270 ]

Where death ensues from the accident provision is made for the payment to his dependents or partial dependents of various amounts, taking into account any amount he received in his lifetime. The rule extends for six years from the accident from which death results. If he leaves no dependents in the United States or Canada at the time of the accident, the amount of compensation shall not exceed one thousand dollars. The total compensation payable under the Act shall in no case exceed forty-five hundred dollars. The Act declares who are to receive the fund in case of employee's death. The Industrial Commission determines the question of costs, and if the suit be brought or defended without reasonable grounds, it may assess the whole cost against such parties bringing or defending the suit.

### [ Section 271 ]

The right of appeal from the Commission is allowed to the Circuit or Corporation Courts of the counties or cities where the accident happened, or where the employer resides or has his principal office, or in Richmond to the



Circuit or Law and Equity Court. The form and manner of appeal to be prescribed by the Supreme Court of Appeals of Virginia, and the Commission may certify questions of law to that Court on its own motion. The granting of the appeal and the certification by the Commission shall act as a supersedeas, and no employer shall be required to pay until the question is determined.

[ Section 272 ]

Employers are required to insure and keep insured their liability under the Act in some Company authorized to transact Workman's Compensation Insurance in this State or in some Mutual Insurance Association formed by a group of employers so authorized. Deposits are required to be made with the State Treasurer, who is appointed the custodian of the securities required as acceptable security, to secure the payment of compensation liabilities, as they are incurred. Provision is made in the Act for the regulation of carriers of insurance, requiring among other things that no policy under this Act shall be valid until the rate has been approved by the Commissioner of Insurance.

[ Section 273 ]

Every company doing business under this Act is required to pay a tax upon the premiums in the state at the rate of three per cent of such premiums in lieu of all other taxes on premiums. The companies under penalty must make sworn returns of the premiums received during the previous six months. And employers who carry their own risks must report under oath his pay-roll subject to this act.

[ Section 274 ]

The costs of the Commission are to be repaid the State out of the special funds raised under the Act when available.

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GAME AND INLAND FISHERIES .

## [ Section 275 ]

The State Department of Game and Inland Fisheries was established by the Act of 1916. It is put in charge of a Commissioner of Fisheries, who is provided with a suitable office at the State Capital, and who upon the approval of the Governor may employ a clerk or clerks when necessary. The Commissioner must be duly sworn, and give a bond in the penalty of five thousand dollars with sureties approved by the Secretary of the Commonwealth, conditioned to account for truly and apply all moneys that come into his hands, and that he will faithfully perform the duties enjoined upon him by law. He must keep and file with the Governor an itemized monthly statement under oath of all sums of money received or expended by him in the discharge of his official duties, including clerical services, salaries, and expenses while travelling, postage, stationery, and other necessary incidental expenses.

## [ Section 276 ]

Upon the Governor's approval, the Auditor of Public Accounts draws his warrant for the amount to be paid monthly out of the Game Protection Fund. These accounts are audited under the direction of the Governor, as are other accounts of State officers. The Commissioner must make an annual Report in September and at other times as the Governor may direct, showing his official business, the number of hunters' licenses issued, and all fees collected, what money has been received from all sources and the disposition of the same. The Report must show the number of wardens employed and give all necessary information as to the affairs of the Department of Game. The Report is to be published in pamphlet form.

## [ Section 277 ]

Duties are imposed on the Commissioner of enforcing the laws for the protection, propagation, and preservation

of wild animals and birds, and all laws relating to fish above tide water. He shall assist in enforcing all dog-laws, and shall prosecute the violators of such law; shall seize birds, animals, and fish caught or killed, or shipped, or in possession of any person, contrary to the game laws. He may erect buildings and enclosures, and lease or purchase necessary lands for propagating game, and fish found in inland streams, and out of the game and fish fund, he may re-stock any depleted species, and may introduce any new species of game animals, birds or fish, and close the season for hunting and fishing for such new species, if necessary, for from two to five years in any county or in any stream above tidewater, provided due notice be posted thereof, as provided in the statute.

### [ Section 278 ]

With the consent of the Governor he may employ lecturers, and distribute educational matter as to wild life, and he may hold exhibits throughout the State for the benefit of the school children and agriculturalists. And he is required to foster the conservation of all wild life in the state in every reasonable way. He must publish in pamphlet form, for general distribution, the laws relating to game, fish and birds. The Commissioner and his deputies may serve process as sheriffs and constables in all matters of violation of game, fish, forestry and dog-laws.

### [ Section 279 ]

The Commissioner shall appoint necessary game wardens (regular, special, and supervising) to enforce the law, and to hold office during the pleasure of the Commissioner, and until their successors are appointed. There must be at least one regular game warden in each county. The game warden shall assist the Game Commissioner in the discharge of his official duties, and have the authority to enforce the game and fish law as provided. The special wardens are put under the control of the regular wardens



by the Commissioner. The wardens have jurisdiction throughout the state.

[ Section 280 ]

The Commissioner and each warden upon displaying badge of authority or credentials of office, may arrest any violator, of this law, seize and search any person, or receptacle or container in his possession, may enter and search any building, vehicle, depot, or coach, in which the arrester has reasonable ground to believe the person arrested has concealed any fish or game which may furnish evidence of the violation of the law.

[ Section 281 ]

The arrest, seizure and search may be made without warrant, except that a dwelling may not be searched without a warrant. The possession of any animal, bird or fish, or part thereof, killed in violation of law is prima facie evidence of the guilt of such person so in possession, and the game shall be seized by said warden.

[ Section 282 ]

The special game wardens in the magisterial districts are subject to the supervision of the county wardens, and all are subject to and removable by the Commissioner. The wardens are required to give bond with surety before the Clerk of the Circuit Court of their counties, or of the Corporation Court of their cities, in the penalty of one thousand dollars, for the faithful performance of their duties, and to pay any judgments rendered against them for malicious prosecution, unlawful search, arrest or imprisonment, etc. All sheriffs and deputies, marshals, constables, policemen, members of the Commission of Fisheries, oyster police-captains, oyster police inspectors, or other peace officers of the state are game wardens ex officio.

**[ Section 283 ]**

The salaries of the regular game wardens shall be fixed by the Commissioner, not to exceed seventy-five dollars per month in counties and cities containing less than twenty thousand inhabitants, and not to exceed seventy-five dollars per month in other counties and cities; provided that where the full salary is paid, the game warden must devote his whole time to the service. Supervising game wardens receive a salary of not more than one hundred dollars a month, and travelling expenses while in discharge of official duties. But no salaries are paid any game wardens unless they make weekly and monthly reports on forms furnished by the Commissioner, showing miles travelled each day, where they went, arrests made, outcomes of trials, amount of fines and costs imposed, if any, number of hunting and fishing licenses inspected and such other information as the Commissioner may require.

**[ Section 284 ]**

Licenses are dated July 1st in each year and allow hunting to the possessor for the next year with the restrictions provided by law. Hunters' licenses are issued by the Clerks of the Circuit Courts of the counties, or by the Corporation Courts of the cities. A bona fide resident of the State for the next preceding six months pays one dollar, and is entitled to hunt in his county; and when the license is obtained from the Corporation Court of a city, a county license may be granted in the county designated therein.

**[ Section 285 ]**

Licenses describe the applicant in detail as to age, residence, color of eyes and hair, etc. A state license is obtained in the same way for three dollars. Fox hunters with hounds need no license. Non-residents and their sons hunt on their own land and adjoining lands without license. The non-resident pays ten dollars for license, except that an alien pays twenty dollars. He, however, if

he have resided in the state for five years, and owns real estate therein shall be considered as a citizen and only pays the citizen's tax.

[ Section 286 ]

The clerks mentioned must keep a correct and complete record of all licenses issued in a book to be furnished by the Commissioner of Game and Inland Fisheries, which shall remain in the Clerk's office and be open to the inspection of the public at all reasonable times.

[ Section 287 ]

The clerks retain as commissions ten per cent for every county license, and twenty cents for each State license issued by them, and pay the balance to the State Treasurer on the first of each month, which sums are placed in the game protection fund, and on the first of each month, the clerks report to the Commissioner the number of licenses issued, and the licenses and amount of money remitted to the State Treasurer.

[ Section 288 ]

All owners and landlords, and members of their families, and tenants and renters residing thereon, with the consent of the land owners, may hunt on their own or the adjoining land, without license. Every huntsman must carry his license with him when hunting, and must exhibit it to any officer or land owner requesting him to do so.

[ Section 289 ]

Ten days before the first of July in each year, the Commissioner shall deliver to the clerks mentioned as many licenses as may be required, and shall charge the clerks with the number so issued them. On the fifteenth day of June in each year, or within ten days thereafter, the clerks shall return to the Commissioner all unused licenses and stubs of licenses issued.



[ Section 290 ]

All moneys sent to the State Treasurer in payment of hunting licenses under the game laws shall be set aside by him, and be known as the "Game Protection Fund," to be used for the payment of salaries, fees, and other expenses of the Commissioner and wardens provided for by the act, for the study, propagation, preservation and restocking of game animals, birds and fish, with the consent of the Governor, and for the destruction of wild birds or animals that prey upon the protected ones, and for such other purposes as may be provided for. To be paid upon proper warrant from the commissioner, countersigned by the Auditor of Public Accounts.

[ Section 291 ]

But no money is to be paid by the State; but only out of the fund known as the "game protection fund."

[ Section 292 ]

Penalties for hunting without license are imposed of not less than five nor more than twenty-five dollars. But a resident of the State may hunt on his own or adjoining lands without a license.

[ Section 293 ]

A person hunting on the land of another without the consent of the owner shall be deemed guilty of a trespass, and upon conviction fined not more than fifty dollars, and be liable in an action for damages. But this does not apply to bona fide fox-hunters or deer hunters. And one who hunts after being warned not to do so by the owner or tenant, shall be guilty of a misdemeanor, and upon conviction may be punished by a fine not exceeding fifty dollars or imprisonment in the county jail sixty days or both in the discretion of the justice of jury trying the case.

**[ Section 294 ]**

The Clerks of the Courts, within twenty days of the trial or dismissal of any prosecution under the Game Laws shall report in writing the result thereof, and the amount of fine collected, if any, to the Commissioner, under penalty of the sum of five dollars for their failure, to be credited to the "game fund." A special game warden or other officer, or person is entitled to one-half of the actual cash fines collected from the defendant, upon conviction, to be paid by the officer making the collection at the time of the payment, in each prosecution instigated by the warden, officer or other person; and in addition there shall be paid to such warden or other officer, the same fees, as other officers are paid for serving warrants, making arrests, etc. to be taxed in the costs against the defendants. In the event of failure to convict, or in case they cannot be collected from the defendants the costs are paid out of the "game fund."

**[ Section 295 ]**

Judges of the Circuit Courts and the Courts of Concurrent Jurisdiction shall charge the grand juries specifically, and urge strict enquiry into infractions of the game laws. Concurrent jurisdiction is given Justices of the Peace, and Circuit Courts as to trying offences against the Game laws. Certain Game Protective Associations are excepted from the act and are given power to appoint and have control of game wardens as they had when the present act became a law.

**[ Section 296 ]**

The trapping of fur-bearing animals upon the land or water, or in the water adjoining the lands, of another is prohibited, without the written consent of the owner, which writing he must have in possession while setting devices or traps so prohibited. Any person trapping on the land

of another must make to the owner a full report in writing of the stock, fowls, or dogs caught in any trapping device, with date and description thereof.

### [ Section 297 ]

No device for trapping shall be set where liable to damage persons, stock, etc. and the person setting the same is liable for such damage, etc. The land owner may trap or shoot fur-bearing animals on his own land at any season. The provisions of this section are only to be valid if adopted by the Boards of Supervisors of the counties. Ample provision is made for closing the season to protect the game. Some game may not be trapped or sold at any time, such as robins, grouse, pheasants, quail, part-ridges, wood-cock, and wild turkeys. Hunting game birds on Sunday, or earlier than half an hour before sunrise or later than half an hour after sunset, is forbidden. The Supervisors may lengthen the closed season in their counties. The number of birds killed in a day is limited, and the shipping and transporting from the state of certain game is prohibited. With certain exceptions, it is unlawful to kill or capture any wild bird for its plumage. The shooting of pigeons or other birds for amusement is prohibited. Boards of Supervisors may offer rewards for scalps of hawks and other predatory birds and animals.

### [ Section 298 ]

Sanctuaries for game upon agreement between a land owner and the Commissioner are provided for, and penalties fixed for their invasion. Field trials are provided for without hunting licenses where no game is killed; and dogs brought into the state for such trials are exempt from license tax for one weeks time. Fox hounds may be permitted to run at any time by consent of the Commissioner, if the kennel tax has been paid. Provision is made for residents of Virginia to breed game, fish and furbearing animals, and regulating the same.



### [ Section 299 ]

The size of fish which may be caught is limited by statute, so as to protect the young fish. The law forbids the taking or having in possession sturgeon under four feet, rock fish under ten inches, trout under nine inches, spot under six inches, croakers under seven inches, hog-fish under six inches, mullets under six inches, black bass under nine inches, yellow or ring perch under seven inches—"measurements from nose to tip of tail." Those caught under size to be returned immediately to the water; and where taken in a net to be returned before being put inside the boat.

### [ Section 300 ]

Suitable fish ladders to allow fish free passage up and down rivers above tide-water, are required for every dam or other obstruction in any of the rivers of the State, which interfere with such free passage of fish, during the months of March, April, May and June of each year. Such ladders must be kept in good repair, and restored if destroyed. A few counties are excepted from the provisions of the law. Penalties are provided for failures to comply with the law. Inspections are required of the Department in April and October, and reports have to be made to the Circuit and Corporation Courts of the violation of the law as to fish ladders as mentioned. Game wardens are made fish wardens and their powers and duties defined. Seines and nets fixed to the bottom so as to obstruct the passage of fish are forbidden under penalty. Certain counties named are excepted. Not more than twenty-five black bass or forty brook or mountain trout and rainbow trout may be taken in one day by one person. It is unlawful to buy or sell certain game fish such as bass, chub, mountain trout, with certain county exceptions.

### [ Section 301 ]

Dog laws are put under the Department of Game and Inland Fisheries. By the act stock are to be paid for when

killed, and dogs duly taxed are made property. Taxes are imposed on dogs four months old, and dogs are forbidden to run at large without license tags as provided in the act. Penalties are provided for violation of the law. The collars and tags may be taken off when hunting with owner. The money collected from license taxes shall be kept in a separate fund by the Treasurer to be applied as provided in the act. Any mad dog, or dog who has killed or worried sheep shall be killed by order of a Justice of the Peace. If the owner of a dog ordered to be killed shall conceal him or cause to be concealed he shall be fined four dollars for every day such dog is so concealed.

### [ Section 302 ]

In all game and fish laws wherever there is a conflict between the laws of the state and the United States, the United States law is to govern. The Treaty with reference to migratory birds between the United States and Great Britain as to such birds of Canada, and the United States, is the law, if in conflict with the state law. The "Bag limit" on the following birds by such Treaty is twenty-five ducks; eight geese; fifty sora; fifteen plover; twenty-five snipe; six wood-cock; and twenty-five doves.

### [ Section 303 ]

THE DAIRY AND FOOD COMMISSIONER'S duties are defined by statute. The Governor by and with the consent of the General Assembly in joint session makes the appointment and the Commissioner holds office for four years from the 31st of January of the year of his appointment. He is removable by the Governor, but the reasons thereof must be laid before the next General Assembly in joint session. The Governor fills the vacancy for the unexpired term. The Commissioner must take the oath of office as provided in the Constitution, and gives bond with security approved by the Governor, in the penalty of five

thousand dollars for the faithful performance of his duties. A Deputy Dairy and Food Commissioner is appointed by the joint action of the Commissioner and of the Commissioner of Agriculture and Immigration, subject to the confirmation of the State Board of Agriculture, etc. His salary is twenty-six hundred dollars. Special assistants to be paid for the time actually employed may be appointed as the said deputy is appointed, and hold office during the pleasure of the Commissioners.

### [ Section 304 ]

Salaries payable monthly, and actual necessary expenses are audited by the State Board of Agriculture, etc., and paid upon warrant of the Dairy and Food Commissioner, or the Auditor of Public Accounts. The Board of Agriculture, etc. must provide office room, etc. in the City of Richmond for the conduct of the business of the Dairy and Food Commissioner on his application therefor. The chemical laboratory of the Department of Agriculture, etc. shall do the chemical work incident to the execution of the Dairy and Pure Food laws.

### [ Section 305 ]

The duties of the Dairy and Food Commissioner are defined in the statute. He must carefully inquire into dairy and food and drink products which are manufactured or offered for sale in the State; he may procure samples thereof in a lawful manner and have them analyzed by the State Chemist, who shall report to him the result. He shall make complaint against the manufacturer or the vendor of adulterated, impure or unwholesome articles used in contravention of the State's pure food laws, and furnish all evidence thereof to obtain a conviction of the offense charged. In the performance of his duties he may enter any creamery, factory, drug-store or laboratory and open any receptacle supposed to contain any article of food or drink and examine the contents, and



take therefrom samples for analysis, (samples to be taken in the presence of a witness and marked,) and tender to the owner, or the person having the custody, the value thereof, and a statement in writing showing reasons for taking the sample. Bakeries and confectionaries may be notified of filthy or unsanitary conditions, and unless the evil is corrected, the person or persons may be deemed guilty of a misdemeanor, and upon conviction be punished by fine or imprisonment, or both in the discretion of the Court. The Commissioner, Deputy or agent duly appointed may seize articles used as imitations or substitutes for Dairy and Food products. Provision is made for the disposition of such articles, and for action against the violators of the Dairy and Food laws.

#### [ Section 306 ]

Commonwealth's Attorneys are required to render legal assistance when called on by the Commissioner. To the Commissioner is given the enforcement of the laws. He shall make an annual report to the Commissioner of Agriculture and Immigration, to be by him transmitted to the Governor. This report shall show the doings of his office for the preceding fiscal year, such as the number of inspections made, specimens analyzed, complaints entered against those violating the law, the amount of fines imposed, and make recommendations such as may benefit the service.

#### [ Section 307 ]

The term "food" in the act includes food, drink, confectionary, or condiment used by man or other animal. Adulteration in case of confectionary, means putting into such confectionary, deleterious ingredients. In case of food, it means mixing any substance which may injure its quality or be injurious to health, etc. The marking of "Virginia" or "Old Dominion" meal from western corn is prohibited. And mill-feed, mill-stuff, bran, brownstuff, or ship-stuff is forbidden under penalty unless made of

bran of corn, wheat or other cereal grain. Oleomargarine must not be sold as butter; and where used, the fact must be indicated by signs posted conspicuously. Standards are fixed for ice-cream. Licenses must be obtained from the Dairy and Food Commissioner to conduct any slaughter-house, abattoir, packing house, etc.

[ Section 308 ]

THE STATE VETERINARIAN under the direction of the Live Stock Sanitary Board, and the State Dairy and Food Commissioner, shall apply the tuberculin test to breeding or dairy cows as may be directed by them, for controlling the disease of tuberculosis.

[ Section 309 ]

THE STATE BOARD OF PUBLIC WELFARE has succeeded the Board of Charities and Corrections, whose members when the Act of 1922 took effect, are continued. On the 1st of February in each year, the Governor, subject to confirmation by the Senate, appoints one member for the term of five years, until five members are appointed. Members of the Board may be removed by the Governor for cause. Membership on the Board is forbidden to directors, officers or employees of an institution subject to the terms of the Board of Public Welfare Act. The Board appoints as executive officer, the Commissioner of Public Welfare, whose salary is fixed by statute. He appoints other assistants and employees, subject to the approval of the Board. Salaries and expenses are paid out of the State Treasury on warrants of the Auditor of Public Accounts issued on certificates signed by the Chairman of the Board. Members of the Board, and the Commissioner and assistant Commissioner take the oath of office before entering on the discharge of their duties, and the Commissioner and Assistant Commissioner give bond to the Commonwealth in the penalty required by the Board for faithful performance of their duties which bonds are filed in the office of the Secretary of the Commonwealth.

**[ Section 310 ]**

The duties of the Board are to inspect and examine, and report on all state, county, municipal and private institutions of any eleemosynary, charitable correctional or reformatory character or which are for the care or training of defective, dependent, neglected, or criminal classes. Visitation by at least two members of the Board is required every six months in certain named cases. Extracts from reports duly made shall be sent to the Chairman of the Boards of Supervisors, and presidents of city councils, and to the officials in charge of institutions. All information, statistics and reports required must be furnished the Board by those in charge of such institutions, and free access to inmates, and records is required of such management, at any time. Interference, or refusal to disclose information when lawfully requested is made a misdemeanor. All plans of public institutions of charitable or penal nature, before adoption by county or city authorities must be submitted to the Board of Public Welfare, who shall promptly return the same with suggestions and recommendations.

**[ Section 311 ]**

The Governor may, when he thinks proper, direct the Board, or any committee or agent to make an investigation of the management of any institution receiving aid from the State, and requiring investigation under the Public Welfare Act. And power is given to enforce the attendance of witness, the production of documents, and the giving of evidence. Provision is made for the payment of the members of the Board conducting the investigation, necessary expenses, and five dollars a day while in actual service. The Board shall make a biennial report to the Governor.

**[ Section 312 ]**

Provision is made for a county or city Board of Public Welfare created by the Circuit or Corporation Court or Judge in vacation from a list of eligibles submitted by the



State Board of Public Welfare. Such local Board to consist of not less than three nor more than seven. The term is to be for four years, and provision is made for the removal of any member for cause, by the State Board of Public Welfare, by and with the approval of the Court or Judge making the appointment entered of record. The duties of the local Boards are defined specifically, who from a list of eligibles submitted by the State Board, may appoint a county or city superintendent of Public Welfare and such assistants as the local Boards may deem necessary. Their salaries to be fixed by the County Board of Supervisors, or the governing body of the cities. Such local superintendent of public welfare to be the executive officer of the Board appointing him. He must take the oath of office before the court or the judge which appointed the Board, and enter into bond with amount and surety approved by the court or judge conditioned for the faithful discharge of his duties. Such local superintendent is vested with powers of a police officer or constable. Under the local Board and the State Board, his powers and duties are specifically defined in the Statute.

### [ Section 313 ]

Among the definite duties imposed on the State Board of Public Welfare are child welfare (to regulate child-placing) maternity hospitals (where women are treated during pregnancy or during delivery) children's nurseries, mothers' aid (indigent widowed mothers for the partial support of children in their own homes) desertion or non-support by husbands, female delinquents, juvenile laws, and probation laws (the supervision of those who have broken the laws) the adoption of children, detention homes, etc.

### [ Section 314 ]

THE LEGISLATIVE REFERENCE BUREAU is a statutory one. It is placed in charge of a Director appointed

by the Governor with the approval of the Senate. The act specifies that he is to be appointed solely on the ground of fitness, without reference to party affiliations, and requires that he devote his entire time to the work of the Bureau. He holds office for five years, and is removable by the Governor for cause. He must be a graduate in some University or College Law School, and have studied political science for twelve months and must have had some experience in drafting statute law.

### [ Section 315 ]

The Director is given rooms in the State Library Building, the Capitol or elsewhere in Richmond, convenient for members of the General Assembly. His duties are to aid the Governor and members of the General Assembly in drafting bills upon written request duly signed, which statement shall not be made public, except with the consent of the person signing the same. He must also collect and classify data relating to pending or prospective legislation, prepare and compile catalogues, indexes, etc. relating to legislation; publish bulletins and pamphlets as guides in the Bureau; keep files and documents printed by order of the General Assembly; accumulate data and statistics as to effect of statutes in other states. Necessary printing and binding, and stationery, are done and furnished by the Superintendent of Public Printing, upon requisition of the Director. The salary of the Director is \$3,600. and there was appropriated by the last General Assembly for the Bureau, the sum of \$8,851.

### [ Section 316 ]

The State Tax Board consists of the two Auditors and the Treasurer. They serve without extra pay, and have the supervision and enforcement of the tax laws. The

Board is given authority to investigate and report whether tax officers are performing their duties, etc., and to institute proceedings in court to correct assessments, and to perform such acts as will effect fairness and equality of assessments and taxation.

### [ Section 317 ]

The Tax Board appoints for each Judicial Circuit for the term of four years an Examiner of Records, who qualifies, and gives bond with surety for the faithful discharge of his duties before the Circuit Court or Judge of his Circuit. His duties are defined by Statute, and are mainly the annual examination and report on fiduciary accounts. He makes report to the Commissioners of Revenue of his findings upon forms prescribed by the Auditor of Public Accounts, and the Commissioners extend the same upon the personal property books. The Motor Vehicle Commissioner issues licenses and collects the Gasoline Tax.

### [ Section 318 ]

The General Assembly appropriates for the use of the State Tax Board the sum of \$12,550. out of which, counsel and assistant, etc. are paid.

### [ Section 319 ]

The Purchasing Commission consists of the Governor as Chairman, the Auditor of Public Accounts, as Secretary, the State Treasurer, and the State Purchasing Agent. Its business is the purchasing of commodities for the State. There was appropriated for its use \$11,200., out of which the Commissioner of State Hospitals, as ex officio State Purchasing Agent, was to be paid \$1,600., and Assistant Purchasing Agent, \$3,000; and two clerks, one a book-keeper and the other a stenographer, \$1,800. and \$1,500. respectively.



### [ Section 320 ]

The State Fee Commission consists of the Governor, the Auditor of Public Accouts, and the State Accountant. Its duty is the study of the regulation of the compensation of fee officers. There was appropriated for its use the sum of \$250. of which \$200. was to be expended for a stenographer.

### [ Section 321 ]

The State Geological Commission is composed of the Governor as Chairman, the Presidents of the University of Virginia, and the Virginia Polytechnic Institute, the Superintendent of the Virginia Military Institute, the State Geologist, the State Forester, and a civilian appointee. They serve without compensation but their detailed expenses are allowed them while in the discharge of their duties. There was appropriated therefor the sum of \$700., out of which the Secretary of the State Geological Commission was to receive \$300. Its object is the development of the mineral and forestry resources of the Commonwealth.

### [ Section 322 ]

The Forestry Department is placed under the State Forester, who is appointed by the State Geological Commission, and there is appropriated for the protection and development of the forest resources of the Commonwealth eighteen thousand dollars, out of which the State Forester and his assistant receive \$3,000. each and a second assistant receives \$2,500.

### [ Section 323 ]

There is appropriated for the State Geological Survey the sum of \$18,465. Out of this the State Geologist receives \$2,000., and his assistant \$1,500. There is provi-

sion made for a topographic mapping in co-operation with the United States Geological Survey, and \$5,000. is appropriated therefor.

### [ Section 324 ]

The Virginia War History Commission consists of eighteen distinguished citizens of the Commonwealth, and there is appropriated for preparing a war history of Virginia the sum of \$7,500.

### [ Section 325 ]

The Virginia Board of Crop Pest Commissioners consist of the Board of Control of the Virginia Agricultural and Experiment Station. At present the Executive Committee of the V. P. I. Board of Visitors. Out of the appropriation therefor of \$18,725 for furnishing protection from crop pests, and for the eradication of the Oriental moth pest, the State entomologist receives \$3,000.; and the associate entomologist receives \$1,980. Receipts of the State Board of Crop Pests Commissioners from the registration and certification of nurseries, are to be put in a special fund by the Auditor of Public Accounts, and paid from time to time as provided by law. All other fees and revenues formerly collected by said Commissioners to be paid into the General fund of the State Treasury.

### [ Section 326 ]

The State Live Stock Sanitary Board consists of the Executive Committee of the V. P. I. Board, and includes the State Veterinarian. There is appropriated the sum of \$21,670. for protecting live stock from diseases. Of this amount the State Veterinarian receives \$4,000., and his assistant \$2,500. The Veterinary Board consists of five members.

### [ Section 327 ]

The Division of Markets is a feature of the Board of Agriculture and Immigration, and there is appropriated for collecting and disseminating market information, etc., the sum of \$20,000.

### [ Section 328 ]

The Virginia Truck Experiment Station at Norfolk, instituted for experimentation in truck crop development, receives \$22,960., and there is appropriated for such work on the Eastern Shore of Virginia \$2,110. Out of these appropriations a Director is paid \$3,500. and other officials, including horticulturists, plant pathologists, and entomologists, other sums.

### [ Section 329 ]

The Commission of Fisheries consists of five members appointed by the Governor, at least two of whom shall be from the tidewater section of the State. One of the latter shall be designated by the Governor as Commissioner of Fisheries, who shall be ex officio chairman of the Commission. The other tidewater member to be the Shell-Fish Commissioner, who shall be assistant Commissioner of Fisheries. Their duties are the protection of the oyster beds of the Commonwealth. Out of the appropriation of \$81,170., nineteen thousand, one hundred dollars, are for the expenses of administration; fifty-seven thousand and seventy dollars for the protection of the oyster beds and fish, and five thousand for improvement of the oyster beds. All revenue collected by the Commission of Fisheries, is placed in the general fund of the State Treasury, and the total appropriation is paid out of the State Treasury.

### [ Section 330 ]

The Commissioner of State Hospitals is appointed for the administration of the State Hospitals for the Insane and



the State Colony for Epileptics and the Feeble-minded. He is paid the sum of \$2,000.

[ Section 331 ]

The Board of Commissioners for the promotion of Uniformity of Legislation in the United States, consists of three members appointed by the Governor.

## XVII. Public Institutions and Prisons.

[ Section 332 ]

By the terms of the Constitution, State Hospitals for the Insane and a penitentiary with such branch prisons, and prison farms as may be provided by the General Assembly, are established.

[ Section 333 ]

A Board of three Directors for each of the State Hospitals for the Insane now existing, appointed by the Governor, subject to confirmation by the Senate, is to have the management of the hospital for which they are appointed subject to the supervision and control of the General Board of Directors. The term of the Directors is for six years.

[ Section 334 ]

The General Board of Directors for the control and management of all the State Hospitals for the Insane established, and to be established, shall consist of all the members of the Special Boards of Directors mentioned. The General Board subject to the regulation by the General Assembly is given control over the Special Boards and all officers and employees in said hospitals. A Superintendent for each State Hospital for the Insane shall be appointed by the General Board for a term of four years, re-

movable for causes mentioned in the Constitution by the General Board. All other resident officers shall be appointed by the Special Board for each hospital subject to the approval of the General Board. The Superintendent of each hospital shall appoint and may remove with the approval of the Special Board all other employees of such hospital.

### [ Section 335 ]

A Commissioner of State Hospitals for the Insane is appointed by the Governor, subject to confirmation by the Senate for a term of four years. He is ex officio Chairman of the General and of each of the Special Boards of Directors. He is responsible for the proper use of all moneys received from any source for the maintenance of such hospitals. He is to institute in each hospital a uniform system of keeping the records and accounts of money received and disbursed, and of making reports thereof. He is to perform such other duties as may be prescribed by statute. He shall execute such bond, and receive the salary so prescribed.

### [ Section 336 ]

The Governor appoints five Directors subject to confirmation by the Senate, which Board, subject to the statutes passed by the General Assembly, have the government and control of the penitentiary, branch prisons, and prison farms, and appoint the superintendents and surgeons thereof. The respective superintendents appoint and remove all other officers and employees of the penitentiary, branch prisons and prison farms, subject to the approval of the Board of Directors. The superintendents and surgeons, appointed for a term of four years, are removable by the Board of Directors for misbehavior as defined in the Constitution. The Directors are appointed for a term

of five years, and may be suspended by the Governor until the next meeting of the General Assembly, to which he must make report thereof.

### [ Section 337 ]

There are numerous associations, societies, etc., to which the State appropriates revenue, and they may be deemed quasi agencies of the Government. These are The Confederate Memorial Association, The Confederate Museum at Richmond, The Co-operative Education Association of Virginia, Home for Needy Confederate Women, Richmond Eye, Ear and Throat Infirmary, Travelers Aid Society of Lynchburg, Newport News, Norfolk, Petersburg, Portsmouth, Roanoke, Staunton, Richmond; The Virginia Crop Improvement Association, The Virginia Home for Incurables, Richmond; Virginia State Dairymen's Association; The Virginia State Fair Association, and the Virginia State Horticultural Society.

### [ Section 338 ]

There are the Medical, Dental, and Graduate Nurse Examining Boards; the Architects, Engineering and Surveyors Board; the Pharmacy Board; the Board of Legal Examiners and the Board of Censors of Films, all provided by law for the purpose of protecting the public from quacks and fakers in the several professions, and to assist in the welfare of the Commonwealth.

### [ Section 339 ]

#### COMMISSION ON THE SIMPLIFICATION OF STATE GOVERNMENT:

This Commission was authorized by the Act of 1922. It is composed of nine members. Two are from the Senate appointed by the President of the Senate; three from the House of Delegates by the Speaker; and four are ap-



pointed by the Governor from the qualified voters of the State. The Commission names a member Chairman, and another Secretary.

### [ Section 340 ]

The duties of the Commission are to study the details of the organization of the State and local government, and make recommendations to the General Assembly of nineteen hundred and twenty-four. It is to offer a plan for the re-organization and simplification of all the component parts of the Government, and for the elimination of unnecessary duplication in governmental agencies, state and local. It shall report improvements to be effected by legislative and by constitutional enactment separately. The Commission is to receive six dollars a day, actual travelling expenses, hotel expenses for the several members each in attendance on meetings of the Commission.

## XVIII. The State Accountant

### [ Section 341 ]

The State Accountant is appointed by the Governor upon the recommendation of the joint Auditing Committee of the General Assembly. His expenses are rendered monthly by itemized statement to the Auditor of Public Accounts and upon affidavit a pro rata part of his salary and the expenses are paid monthly. He must be an experienced expert accountant, and must have had four years experience. He qualifies before the Circuit Court or Judge of the City of Richmond, and gives bond with security in the penalty of five thousand dollars for the faithful performance of his duty. The bond to be filed with the Secretary of the Commonwealth. He may be removed by the Governor for misfeasance or malfeasance, or for incompetency. His duties are under the direction of the joint Auditing Committee of the General Assembly to de-

visé a modern effective and uniform system of book-keeping and accounting comprehending an efficient system of checks and balances between the officers at the seat of Government, entrusted with the collection, and receipt, custody and disbursement of revenues of the State; such system of accounting to be suitable to the needs of the offices of Auditor of Public Accounts, of the State Treasurer, of the Secretary of the Commonwealth, the Superintendent of Public Instruction, the State Highway Commission, the Second Auditor, the Commissioner of Agriculture, Bureau of Insurance, the Register of the Land Office, the State Library, the Commission of Fisheries, the Board of Sinking Fund Commissioners, and all other State offices at the seat of Government. He examines, upon the direction of the Auditor of Public Accounts or of any other State officer at the seat of Government, the accounts of any person required to settle with such officer.

### [ Section 342 ]

He is directed to employ assistants with the approval of the Auditing Committee of the General Assembly and to audit every two years from July 1, 1922, and at other times, if the Governor directs it, all accounts and records of every city and county official and agency in the State handling State funds. He shall make a detailed written report to the Governor within thirty days after such audit, which reports are public records, and shall be transmitted to the General Assembly at each regular session by the Governor. Each locality, the records of which officials are examined, shall repay into the State Treasury, one-half of the expense upon the State Accountant's presentation of a bill therefor.

## XIX. The Budget System

### [ Section 343 ]

By legislative enactment the Governor is made the Chief Budget Officer of the State. He is to appoint a Deputy Budget Officer to be known as Director of the Budget for a term of four years from the first of March of the inauguration of the Governor. The Governor may appoint other competent Budget assistants. The Auditor of Public Accounts biennially on or before the 1st of November in the odd numbered years, must furnish the Governor, an estimate of the financial needs classified by him. All departments, bureaus, divisions, officers, boards, commissions, institutions or other agencies upon request must furnish the Governor in such form as he may require, any information desired by him in relation to their respective affairs. Public hearing shall be provided for by the Governor in the month of November biennially in the odd-numbered years, for all agencies receiving or asking financial aid from the State. The Governor is required to make a careful survey of all the activities of the State, upon which to base his recommendations to the General Assembly.

### [ Section 344 ]

Within five days of the beginning of the General Assembly, the Governor must submit to the presiding officer of each House printed copies of the budget, based on his conclusions, containing a complete itemized plan of all proposed expenditures for all governmental activities, and of estimated revenues and borrowings for each in the ensuing biennium beginning the first of the following March. The budget shall show in separate parallel columns the last year's appropriation, and the current year's appropriation, as well as the increase or decrease.



**[ Section 345 ]**

Accompanying the Governor's budget shall be (1) a statement of the revenues and expenditures for the two appropriation years next preceding, duly classified and itemized; (2) a statement of current assets, liabilities, reserves and surplus or deficit of the State; (3) a statement of the debts and funds of the State (4) a statement of the Governor's estimate of the condition of the State Treasury at the beginning and end of each of the next two appropriation years; (5) a complete balance sheet of the State for the last fiscal year ending September 30th; (6) a general survey of the State's financial and natural resources with a review of the general economic, industrial and commercial condition.

**[ Section 346 ]**

The Standing Committees of the two Houses of the General Assembly in charge of the appropriation measures must sit jointly in open session while considering the budget within five days of its submission to the General Assembly. All persons interested are given the right to be heard, and their attendance and that of the Heads of departments may be required by the joint committee. The General Assembly may increase or decrease items in the budget bill in the interest of economy and efficiency; but special appropriations not in the budget bill, except in case of emergency, shall not be considered until the budget bill has been acted on by both Houses. And the fact of the emergency must be duly stated in the bill therefor. The original bill directed that the salaries and travelling expenses be paid out of the civil contingent fund. The printing of one thousand copies of the Budget amounts to \$7,479.92, besides the annual appropriation of \$11,700, which includes \$4,500. for the Director of the Budget, \$3,600. for the Statistician and not exceeding \$1,800. for the Secretary and Statistical Assistant.

## XX. Public Debt

### [ Section 347 ]

A hundred years ago, the Commonwealth of Virginia entered into the business of issuing bonds for public improvements—the first act to that end having been passed in 1820. The State would subscribe to two-fifths of the stocks of any responsible public Improvement company. To raise the money for such two-fifths, the State would issue its bonds payable at its pleasure and agreed to pay interest thereon to the holders of such bonds regularly, with the stipulation that the bonds might be called in and paid off at the pleasure of the State. It is of interest to note that between 1820 and 1861, the State issued and guaranteed thirty-one millions of bonds, and paid more than eighteen millions of interest; but had only paid two hundred and forty-five thousand of principal. It is a pathetic fact too that of the public improvements into which the State entered, all that is left to her to represent her investments of \$18,582,591.12 in Railroads, is her interest in the Richmond, Fredericksburg and Potomac Railroad Company. Such have been the exigencies of the State in her efforts to maintain her credit and good name that she has had to sacrifice her holdings which, if they could have been held, would have made her financially independent. With reference to the Richmond, Fredericksburg and Potomac Railroad Company's ownership by the State, which amounts to about one-sixth of its common voting stock, of which she owns 2752 shares, and of dividend obligations 14,796 shares, each paying 7%, it may be said as was replied by the lioness when chided for having only one at a birth: "but that one is a lioness."

### [ Section 348 ]

From the State's original investment of \$275,200.00 she now receives \$122,836.00 a year; which sum is applied

by the Board of Sinking Fund Commissioners to the reduction of the Public Debt.

The Public Debt of Virginia on the 1st of October, 1863 consisted of the following items:

For Navigation Companies	\$12,234,116.30
For Plank Road Companies	411,192.91
Turnpike Companies	2,507,103.98
Bridge Companies	136,034.66
State Roads	1,785,989.69
Railroad Companies	18,582,591.12
State Defense	164,457.85

Making a total of	\$35,821,486.51
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The Public Debt of Virginia as of October 1st, 1923 is \$21,173,703.33 of which

Century bonds are	\$13,881,396.26
Riddleberger bonds are	4,403,654.16
School and College Certificates are	2,467,605.85
Old and Unfunded	421,047.06

### [ Section 349 ]

The history of the Public Debt in Virginia has something of tragedy in it.

At the end of the war between the states, Virginia found herself bereft of the only labor she had known in her eastern section, and of that part of her territory which contained the least of the slave population; that possessed a wealth of mineral and coal and which soon exceeded the value that remained.

### [ Section 350 ]

In 1871 as it had done in 1867, the General Assembly capitalized whatever of interest had accumulated and said to the holders of her debt:



**[ Section 351 ]**

“The debt we owe is in round numbers \$45,000,000. West Virginia has one-third of the assets and must assume her share of our jointly made debt. Holder, come in, therefore, and we will give you for every old bond surrendered a new bond for two-thirds of our indebtedness and a certificate for the other third to be paid when West Virginia settles her share.” In other words Virginia assumed to pay thirty millions, and gave certificates known as West Virginia certificates or Virginia Deferred for fifteen millions. When the Legislature passed the Consol Act of 1871, assuming to pay six per cent on \$30,000,000, and made the \$1,800,000 of interest annually to be paid thereon, tax receivable as coupons, the gross revenues of the Commonwealth with a tax rate for State purposes of 50 cents on the hundred, were only \$2,800,000.

**[ Section 352 ]**

Not only was the payment of \$1,800,000. per annum out of a gross annual revenue of \$2,800,000. impossible, but in that very year a new school system had to be instituted as provided in the Constitution. West Virginia refused to pay anything, though in the Constitution under which she became a State, she promised to pay her portion; and the question on the floor of Congress when her statehood was in embryo, showed that but for that promise she might never have attained the dignity of a sovereign State. Then there came the time of stress and struggle in Virginia. It was Homeric. Virginia called on the honor of the old Dominion to do the impossible—to pay when there was nothing to pay with, until there was hardly revenue left to pay the salary of the Governor and none to maintain the hospitals and asylums, and schools.

**[ Section 353 ]**

Then came the McCullough Bill and the Act of 1879, known as the “10-40” Act. The author of the Bill had

been in General Grant's Cabinet, and had a reputation as a financier. He said, "You cannot pay six per cent on \$30,000,000. annually, which is nearly two-thirds of your gross revenue; but you can pay three per cent for ten years; four per cent for twenty years; and five per cent for ten years; and retain the tax receivable feature of the new or "ten-forty bonds" as they were called. This was also an impossibility as it would have required instead of \$1,800,000 per annum, \$900,000., \$1,200,000. and \$1,500,000. for the respective annual payments of the three periods.

### [ Section 354 ]

By this time, every effort was being put forward by the holders of the Bonds to force a settlement. And equally strenuous efforts were advanced by the opponents of the measure, with the result that the McCullough Bill was shown to be a failure.

### [ Section 355 ]

Then three years later in 1882, the Riddleberger Act was passed—General Mahone having turned the state upside down on the issue of "Readjustment of the Debt," which was to pay a fiat 3% interest annually upon \$21,000,000. which the calculation at the head of the Act claimed the debt to be instead of \$30,000,000. assumed by the Act of 1871, and to abolish the tax receivable feature of the coupons.

This proved also a failure, for after ten years, when the final act of settlement was passed only nine million of new bonds had been issued.

### [ Section 356 ]

Then came the final settlement of all questions as to the public debt in 1892 when the Century Act was passed which is the last of the funding acts, and settled all differences between the State and the bondholders, making what

the Supreme Court of the United States has declared a full settlement satisfactory to all parties concerned. By this settlement, which was made after a full investigation of the Commonwealth's ability to pay, and of the valuation of her assets by expert bankers and financiers, the following terms were agreed on:

[ Section 357 ]

That the \$9,000,000. of Riddleberger 3% bonds which had been funded under the Act of 1882 should be assumed as they stood; that for every 28 of the old bonds and past due interest surrendered, 19 new bonds without the tax receivable feature should be issued, bearing two per cent interest for ten years and three per cent for ninety years, and that in 1910 there should be established a sinking fund which up to 1929 should amount to about 120,000, and after that time should amount to about \$240,000, per annum.

[ Section 358 ]

Further provision was made as to the holdings of the schools and colleges as had been done in the Act of 1882, which gave to the institutions holding the State's securities upon their surrender and cancellation a non-transferable certificate for a like amount with that surrendered, bearing the original rate of interest, with the right of the State at any time to redeem the same at par. The amount of such school and college certificates so surrendered amount to \$2,465,000. of which all bear six per cent except a small amount (less than \$100,000) which bears five per cent interest. It is of interest to note that among the bonds so surrendered, and for which such schools and college certificates were issued are the \$50,000. worth of bonds, voted General George Washington after the Revolutionary War, and by him donated to Liberty Hall Academy to become the foundation of Washington College, and Washington and Lee University.



### [ Section 359 ]

It is of interest to note that the unfunded issues of bonds were with the approval of the bondholders converted into Centuries at rates agreed on between their several holders, and at this time there are the fewest number of such old stocks out, as each year until 1922, the period for the funding was extended and report made thereof each year in the report of the Board of Sinking Fund Commissioners. Such Board to whom is given charge of the Public Debt is composed of the Auditor of Public Accounts, the Second Auditor and the Treasurer. The Secretary of the Board is allowed three hundred dollars.

## XXI. The West Virginia Debt, or “Virginia Deferred.”

### [ Section 360 ]

When the western counties of the State of Virginia opposed secession at the opening of the Civil War, the debt of Virginia was \$33,897,073.82, though finally reduced by agreement between Virginia and the creditors to \$30,563,-861.56.

### [ Section 361 ]

A convention was called at Wheeling after Virginia seceded from the Union, called itself the “Restored State of Virginia,” and on August 20, 1861, adopted an ordinance declaring it to be the sense of the convention that a new State should be formed out of a portion of the territory of Virginia, specifying the counties contained therein. The ordinance, at section 9, contained the following provisions:

“The new State shall take upon itself a just proportion of the debt of the Commonwealth of Virginia prior to January 1, 1861, to be ascertained by charging to it all State expenditures within the limits thereof and a just proportion of the expenses of the State government since any part of said debt was contracted, and deducting therefrom the moneys paid in the Treasury of the Commonwealth from the counties within said new State during said period, etc.

### [ Section 362 ]

The provision of the Constitution of the United States requiring the consent of a State to the formation of another State out of its territory was met by an act of the Legislature of the so called "Restored State of Virginia" on the 13th of May, 1862, giving the consent of Virginia to the erection of the proposed new State within the limits of Virginia.

### [ Section 363 ]

On the 20th of February 1871 the Legislature of Virginia through the Governor tendered to West Virginia a proposition to arbitrate. West Virginia asked that the arbitrators for each State should not be citizens of either State, the arbitrators to select an umpire if necessary.

### [ Section 364 ]

The Governor of West Virginia appointed three Commissioners who came to Richmond where all the accounts and vouchers and evidence were.

### [ Section 365 ]

West Virginia claimed that Virginia failed to cooperate with her Commissioners, and placed them at a disadvantage in examining the records at Richmond, and that only an imperfect report could be made by the State of West Virginia.

### [ Section 366 ]

The West Virginia committee made its report December 22, 1873, from which it appeared that West Virginia did not owe Virginia anything, but that Virginia owed West Virginia on the 1st of January 1861, \$512,000, not including interest.

## [ Section 367 ]

Virginia, by act of March 21, 1867, after reciting the immense loss of property sustained by the State in the war, and that it was found impossible to pay full interest on the public debt and reciting the desire and purpose of the General Assembly to make provision for paying the same as fully as the resources of the State would warrant, had provided that there should be paid on July 1, 1867, and January 1, 1868, two per cent interest upon the principal of the public debt excluding therefrom the bonds given for interest on said debt under act of March 2, 1866. The act recites that such interest was what Virginia feels obliged to pay until settlement of the accounts between the two States.

## [ Section 368 ]

The report of the Second Auditor, December 21, 1870, showed "The public debt issued under the act of March 2, 1866, authorizing the interest to be funded" .. \$7,063,950.77  
And the Unfunded interest due January 1, 1867,

fundable in bonds of that date .....	628,359.61
--------------------------------------	------------

Amount of interest funded and that may be funded .....	\$7,692,310.38
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## [ Section 369 ]

Virginia, by the act of March 30, 1871, passed what was called the "Consol Act," in which two-thirds of the debt, principal and interest, was consolidated and funded as of July 1, 1871, in six per cent. coupon or registered bonds payable in 34 years, except that five per cent. bonds should be funded at five per cent. For the other third of the amount due upon the old debt surrendered, there was issued a certificate bearing the same date as the new bonds, setting forth the amount, and that payment thereof with interest at the rate prescribed in the bond surrendered, will be provided for in accordance with such settlement as shall



hereafter be had between the States of Virginia and West Virginia in regard to the public debt of the State at the time of its dismemberment, and that the State of Virginia holds said bonds, so far as unfunded in trust for the holders or their assignees.

[ Section 370 ]

At the time of the Century settlement, confirmed by the passage of the Century Act of February 20, 1892, there was evidently a discussion of the West Virginia certificates between those making the settlement, and while nothing of it appears in any records, the fact that finality was to be given to the vexed question of Virginia's debt would naturally suggest the ending of the West Virginia controversy; and the further fact of the act next mentioned having passed so speedily would appear to justify the opinion that such idea was in the minds of those making the Century settlement.

[ Section 371 ]

Virginia, by act of March 6, 1894 provided by joint resolution for adjustment with West Virginia of the proportion of the public debt of the original State of Virginia proper to be borne by West Virginia and for the application of whatever may be received from West Virginia to the payment of those entitled to the same.

[ Section 372 ]

This act, after severally referring to the funding and settlement of her public debt under the four acts of March 3, 1871. March 28, 1879. February 14, 1882. February 20, 1892. and reciting the fact that Virginia had settled and adjusted to the entire satisfaction of her people and creditors the liability assumed by her on account of two-thirds of the debt of the original State, created a Commission of seven members to consist of the chairman of the Senate and House Committee on Finance, respectively, and five others, two from the

Senate and two from the House of Delegates to be chosen by such Senate and House, and one resident of the State to be appointed by the Governor. The Commission to choose its own chairman and secretary. Vacancies during recess of the Legislature to be filled by the Governor on notification thereof by the chairman.

### [ Section 373 ]

The Commission was authorized and directed to negotiate with the State of West Virginia a settlement and adjustment of the proportion of the public debt of the original State of Virginia. But it was not to proceed until satisfactory assurances were given by the holders of a majority of the amount of certificates, exclusive of those held by the Board of Education and Sinking Fund Commissioners, of their desire that the Commissioners should so undertake, and of their willingness to accept the amount ascertained to be paid by the State of West Virginia in full settlement of the one-third of the debt of the original State of Virginia. This act further provides that negotiations should not be undertaken by the Commission, except upon the basis of Virginia being liable only for the two-thirds already provided for as her equitable proportion thereof. All expenses incurred by the Commission and the Board of Arbitration, including reasonable compensation of the members thereof to be paid out of the proceeds of such settlement, or by the holders of said certificates who are the beneficiaries of such settlement, but without subjecting the State to any expense on this account.

### [ Section 374 ]

The action of the Commission to be subject to the approval or disapproval of the General Assembly, and not to be binding on the State until approved by the General Assembly.

### [ Section 375 ]

On the 7th of January 1895, Governor O'Ferrall communicated the joint resolution to the Governor of West Virginia by whom it was laid before the Legislature of that State. No committee was appointed by that Legislature to meet the Virginia Commission, nor was any action taken, or response made by them on behalf of that State save the formal acknowledgement of its receipt by the President of the Senate, and the statement that it had been laid before the Senate.

### [ Section 376 ]

The agreement of July 28, 1898, was made between the Bondholders' Committee and holders of the West Virginia certificates who should deposit the same as provided. It then constituted an Advisory Board whose functions were to examine the plan of settlement proposed by the Committee representing the holders of the certificates, submitted to them, and to state their recommendation thereof, or the contrary. The Advisory Board to add to their number, and to fill vacancies.

### [ Section 377 ]

The function of the Committee was to bring about a deposit of certificates or of trust receipts heretofore issued to represent them; to formulate a plan of settlement and after it was recommended by the Advisory Board to cause the same to be published and submitted to depositing creditors in carrying out the purposes of the agreement; to appoint one or more depositories to receive said certificates or trust receipts and issue therefor its proper receipt—subject to restriction in this contract; the Committee to have power to make arrangements with either Virginia or West Virginia to insure the prompt surrender of all or any of the certificates in exchange for such amount as West Virginia may pay, and her creditors agree to accept, and also includes power to execute in behalf of the depositing credi-



tors any release or acquittance which will exclude any demand on Virginia beyond the amount she may receive from West Virginia; provided that no settlement should be concluded until it has been recommended by the Advisory Board, and has been submitted to the creditors and accepted.

### [ Section 378 ]

On the 7th day of February, 1900, the Commission made a report to the General Assembly of Virginia showing that the control and disposal of a majority of said certificates had been tendered, and the Committee offered to accept whatever might be realized from West Virginia on the certificates in full settlement of their claims, and showing that Brown Brothers & Company, Bankers of New York, was the depository of said Committee.

### [ Section 379 ]

The Virginia act of March 6, 1900 provided for the settlement with West Virginia of the proportion of the public debt of the original State of Virginia, proper, to be borne by West Virginia and for the due protection of the Commonwealth, and that the said holders of said certificates so deposited will accept the amount realized on such settlement from West Virginia on said certificates as a full settlement of all their claims thereunder. All the expenses involved in connection with any of the matters aforesaid were to be borne by the certificate holders, as provided in the joint resolution aforesaid, and the State should not be subject to any expense on that account.

### [ Section 380 ]

In January 1903, there was published in the New York and London papers notices to the depositors of "West Virginia Deferred Certificates" under the agreement of deposit dated July 28, 1898, stating that a plan of settlement

of the public debt of West Virginia had been formulated and approved by the Advisory Board.

[ Section 381 ]

On February 1, 1905, Hon. Randolph Harrison made an address before the Finance Committee of the two Houses of the West Virginia Legislature, the sub-committee of the Commission having been invited by such Finance Committees, to give the reasons for Virginia's action in inviting West Virginia's attention to the subject.

[ Section 382 ]

On November 25, 1905, the Committee and Commission executed a contract between them. This contract, after reciting that the action of West Virginia in its authorities' absolute refusal to treat the subject at all, had left the Virginia Commission and Attorney General no possible means of bringing about a settlement which they were charged with making without resort to the court having jurisdiction of controversies between States.

[ Section 383 ]

The Committee agreed on behalf of the depositors to accept such amount in cash or securities as may be determined in the said suit to be due or as may be realized through any settlement from the State of West Virginia in full settlement and satisfaction of all claims on account of said certificates, and on account of the bonds therein mentioned, and to accept as discharge and acquittance of all claims in the premises against the State of Virginia, such adjudication against the State of West Virginia.

[ Section 384 ]

The suit was duly brought, and was conducted with ability worthy of the litigants and the court. The first de-

cision on the merits was on March 6, 1911, reported in 220 U. S. p. 1. Holmes J. determined that the debt amounted to \$30,563,861.56 as of January 1st, 1861, to be apportioned according to estimated value of the real and personal property of the two States at the time of separation—June 20, 1863, and that excluding slaves West Virginia's share was 23.5 per cent., making her share of the principal of the debt, \$7,182,507.46.

[ Section 385 ]

The question of interest was left open to afford opportunity for conference and adjustment. This was done out of the consideration due to the character of the parties, and because this was "a quasi-international difference referred to the court in reliance upon honor and constitutional obligations of the States concerned."

[ Section 386 ]

Mr. Justice Hughes rendered the opinion of the court on the 14th of June, 1915, 238, U. S. p208—the second opinion on the merits.

The Master had reported the \$14,511,945.74 of joint assets applicable to the public debt were:

Cash in Sinking Fund	\$ 819,250.03
Stock in R. F. & P. Railroad	323,167.36
Other stock loans, etc.	7,352,594.65
Interest and dividends prior to January 1, 1861	345,554.80
Bank stock	3,802,357.48
Stock sold A. M. & O. Railroad	204,688.42
Stock in James River & Kanawha Canal Company	1,664,333.00
	<hr/>
	14,511,945.74



The Court added to the Master's estimate of assets what was credited to Virginia in the settlement with the United States in 1903	417,215.70
making	14,929,161.44
It gave West Virginia credit for $23\frac{1}{2}\%$ of the \$14,929,161.44, amounting to 3,508,352.94	
Less money and securities received by West Virginia from the Restored Government of Virginia and found by the Master as due Virginia	541,467.76
Making the credits allowed West Virginia	2,966,885.18
$23\frac{1}{2}\%$ of principal debt of \$30,563,861.56 was	7,182,507.46
Deduct credits allowed West Virginia as above	2,966,885.18
Total principal due by West Virginia under the second decision of the Court on the merits of case	4,215,622.28
Interest January 1, 1861 to July 1, 1891 (4%)	5,143,059.18
Interest July 1, 1891 to July 1, 1915 (3%)	3,035,248.04
Total interest	8,178,307.22
Principal as above	4,215,622.28
Making the total amount of the decree with interest from July 1, 1915 at 5%	12,393,929.50

**XXII. West Virginia Settlement.****[ Section 387 ]**

On the 1st day of April, 1919, the extra session of the West Virginia Legislature, called by Governor Cornwall, of that State passed the law for the settlement of the judgment of the Supreme Court.

That settlement in brief amounted to this:

Principal and Interest of judgment	\$12,393,929.50
Interest from July 1, 1915 to January 1, 1919 (5%)	2,168,937.60

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Total principal and interest January 1, 1919	\$14,562,867.10
to which is to be added 1/2 cost of said suit when taxed and certified.	

---

This was settled as follows:

- |  |                 |
|--|-----------------|
| (a) Cash payment   | \$ 1,062,867.16 |
| with interest at 5% from January 1, 1919 till payment  |                 |
| (b) West Virginia 20-year Bonds dated January 1, 1919, bearing 3½% interest payable semi-annually, July 1, and January 1, of each year, of the face value of 13,500,000.00 |                 |

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\$14,562,867.16

**[ Section 388 ]**

Bonds were issued for the said \$13,500,000, dated January 1, 1919, payable at the Treasurer's Office of West Virginia, or at such agency in the city of New York as may be designated by the State of West Virginia, at the option of the holder, January 1, 1939, with the right of the State to redeem any of said bonds at any time before maturity at par, with accrued interest at the rate of 3½% per annum from date—payable semi-annually, July 1st and January 1st

of each year—and in case of coupons upon presentation and surrender of the same. Principal and interest payable in gold coin of the U. S. of the present standard of weight and fineness. The bonds to be signed by the Treasurer and countersigned by the Auditor. The coupons to contain the signature of the Treasurer which may be engraved thereon.

[ Section 389 ]

The Auditor and Treasurer to issue and deliver coupon bonds to the aggregate number of face value of \$12,366,500. to the Commonwealth of Virginia acting by and through the said Virginia Commission, and take proper receipt therefor in full discharge of the balance of the judgment aforesaid, the State of Virginia to file with the Board of Public Works of the said State of West Virginia a full and complete itemized statement or list of Virginia Deferred Certificates which have been deposited with the Commonwealth of Virginia or subject to her control upon passage of this act.

[ Section 390 ]

The residue, called Reserve Bonds, of the face value of \$1,133,500. were retained by the Board of Public Works of West Virginia to be held "in escrow" that the State of West Virginia might have the benefit of the distributive share in the proceeds of the judgment of such "Virginia Deferred Certificates" as might have been lost or destroyed; but the Board of Public Works were to deliver to the Commonwealth of Virginia acting by and through said Virginia Commission all said reserve bonds in excess of the amount necessary to exchange for Virginia Deferred Certificates which had not been certified as deposited with the Commonwealth of Virginia or subject to her control at the time this act took effect.

[ Section 391 ]

The purpose being that only such bonds shall be retained in escrow for exchange as represented the distributive



share of such Deferred Virginia Certificates in the fund arising from the settlement of the judgment aforesaid as should not have been, at the time this act took effect, deposited with said Virginia Commission or subject to its control.

[ Section 392 ]

Provision was made for fractional certificates exchangeable for Reserve Bonds when presented in sums of \$100. or multiples thereof.

[ Section 393 ]

On January 1, 1939, such Reserve Bonds with interest coupons attached so uncalled for by the said Virginia Commission or authorized representatives of Virginia to be conclusively presumed to have been lost or destroyed and be immediately cancelled.

[ Section 394 ]

One-twentieth in amount of such fund each year was to be applied in the Treasury of West Virginia to credit of the Sinking Fund, to be used annually to purchase bonds at a rate not above par and accrued interest, and to be cancelled and record kept thereof.

[ Section 395 ]

Taxes to be laid by the Board of Public Works on all real and personal estate subject to taxation, to pay interest on bonds and the principal of bonds to be purchased as aforesaid during the year. To be collected in the usual way and deposited to the credit of the Sinking Fund unless some other funds in the State Treasury in any fiscal year are sufficient. Provision was made for payment of interest by the Treasurer every six months, and for printing the bonds and paying costs.

## [ Section 396 ]

The total issue of West Virginia Certificates (called also Virginia Deferred) at the time of the settlement act of West Virginia, April 1, 1919, was		\$18,234,154.40
		<hr/>
Interest Bearing		16,978,917.40
Non-interest Bearing		1,255,237.00
		<hr/>
		\$18,234,154.40
		<hr/>

## [ Section 397 ]

On April 5, 1919, of the \$15,488,692.29 spoken of as in the hands of the public, the Virginia Commissioners by the Brown Brothers depository held \$14,350,000. in round numbers,—leaving something more than a million to be collected from the Virginia Commission as provided in act of settlement.

## THE BENEFITS OF VIRGINIA QUA STATE.

## [ Section 398 ]

She has been allowed a credit of \$541,467.76, and she was allowed in addition, in cash	\$22,425.84
in bonds	438,268.90

under decree of the Circuit Court of the City of Richmond, Virginia.

She has removed from her good name the imputation of being a repudiator. She has made the defendant who reported that Virginia owed her nearly \$500,000. pay four millions and more of principal and eight millions and more of interest with five per cent. thereon. from July 1, 1915.

She has the satisfaction of seeing a former partner upon the judgment of a court restore at least a part of the assets of the original partnership and has had the same applied to the payment of partnership debts.

## HOW THE DISTRIBUTION WAS MADE.

### [ Section 399 ]

The fund has been paid to the holders of the West Virginia Certificates described above. The amount received by the State has been appropriated by the Legislature of Virginia to the office building in the southeastern corner of the Capitol Square.

## XXIII. The Revenue

### [ Section 400 ]

A Frenchman once said that the Revenue was the State. While technically he was wrong, there is much force in the idea which he intended to convey; that civilized states are very dependent upon their revenue.

### [ Section 401 ]

The revenue has been defined as the annual return laid by authority for the public use. The sources of revenue in Virginia are taxes imposed by the Legislature and levies laid by local authority (not to speak of taxes put on by the Congress and known as Federal taxes).

### [ Section 402 ]

The Constitution of Virginia provides that no other or greater amount of tax or revenue shall, at any time, be levied than may be required for the necessary expenses of the government or to pay the indebtedness of the State. It also provides that all taxes, licenses, and other revenue of the State shall be collected by its proper officers and paid into the State Treasury. No money shall be paid out of the State Treasury except in pursuance of appropriations made by law, and these appropriations are limited to two years after the end of the session of the General Assembly authorizing the same. It also requires that every law by which the General Assembly allows a debt to be created or a loan made, shall provide for a sinking fund to be main-



tained for the payment or redemption thereof. This has been held to apply to State debts and loans. The Confederate Debt cannot be paid; but a tax may be levied on real and tangible personal property, not to exceed five cents on the hundred dollars of assessed value thereof for pensions to Confederate Soldiers. The only method of raising the revenue for State purposes is by taxation. The only exception being that the Governor is authorized to make a temporary loan in case of emergency. Every dollar paid into, or out of the Treasury, has to be accompanied by an order from one of the two auditors of the State. In this way the Treasurer's books are checked and balanced.

## XXIV. Segregation and Taxation.

### [ Section 403 ]

In 1915 a new system of taxation was put into operation as provided by the Constitution known as Segregation which separated certain objects of taxation for State taxes, and certain other objects for local levies. The principle had been tried in a few other states, and it was thought wise to attempt it in Virginia. The argument in its favor was that if the localities, the towns, and cities, and counties could have the money that was laid by their local governments upon the lands and tangible personal property, spent within their borders, they would the more willingly support their schools, their roads and their local government than if they had to pay part of the money from such sources to the State Government. And so the plan was tried, so that the localities should have the levies arising from their lands and tangible personal property, and the State should have as taxes, the money raised on the intangibles and that raised from corporations, etc. There was excepted, however, from this arrangement even at first, a ten cent tax on the hundred dollars of value laid on all local subjects mentioned, for state schools, as the Constitution required that such a levy should be made, and it was feared that to omit that feature might be unconstitutional.

### [ Section 404 ]

It was soon discovered, however, that the program did not work, and that even the provisions which allowed the localities to lay a levy upon intangibles to a certain limited extent was ineffectual, and that the localities were no more anxious to raise their own rates than they had been when both State taxes and local levies were assessed at a like valuation. The taxable values for 1923 were \$1,889,305,-013.

### [ Section 405 ]

The result has been, that since 1915 when such segregation was adopted with the ten cent state school tax laid on all real and tangible property in the localities, there has now been added a state tax of fifteen cents on such real and tangible property, making such tax twenty-five cents on the hundred dollars worth of such real and personal property of which amount fourteen cents goes to state schools; ten cents to state roads and one cent goes to the Health Department.

### [ Section 406 ]

The General Assembly of 1922 reduced the tax on notes and bonds from seventy-five cents to thirty-five cents, and allowed a local levy not exceeding twenty cents. The tax on capital was kept at eighty-five cents, with a local levy not exceeding thirty cents. That on money is twenty cents on the hundred dollars and no local levy is permitted. Bank stocks are taxed at twenty-five cents with a local levy allowed not to exceed eighty-five cents in counties. Shares of stock (those incorporated in Virginia pay no tax) pay eighty cents with a local levy not to exceed thirty cents. Public Service Corporations are taxed 1.68 on the hundred of their gross earnings. The Inheritance Tax for 1923 was \$323,736.

### [ Section 407 ]

Since 1922 the tax payer has no right to deduct amount owed by him, from the market value of bonds, notes or other evidences of debt owned by him.

[ Section 408 ]

There is a capitation tax of one dollar and fifty cents (1.50) upon each citizen of the State over twenty-one, of which one-third goes back to the localities for use by the Board of Supervisors. The two-thirds retained by the State goes to the schools. An Inheritance Tax Commissioner for each county and city is provided.

[ Section 409 ]

In addition to the money received by the State from the collection of taxes as mentioned, there are receipts from various other sources which come indirectly but are of quasi public service and are received and disbursed by State officials.

[ Section 410 ]

For the year ending September 30, 1923, there was collected and paid into the State Treasury the gross sum of \$25,492,955.27, which with the balance on hand at the beginning of the fiscal year of \$2,499,362.30, made a total of \$27,992,317.57.

XXV. Receipts.

[ Section 411 ]

Payments into the Treasury from all sources during the year ending September 30, 1923, aggregated \$23,931,413.74, (exclusive of payment of \$1,561,541.53 by railroads of franchise taxes for 1923 paid in advance) and were from the following sources in the percentages given:

Automobile license taxes for construction and main-	
tenance of roads.....	.1308
Bank stock, taxes on.....	.0093
Capitation taxes.....	.0398
Charter fees.....	.0045
Corporations (public service; railroads, etc.) .....	.1409
Deeds, wills, etc., taxes for recording, probating, etc.,	
tax on suits, etc.,.....	.0191



Excess fees of officers.....	.0047
Federal aid and other receipts for roads.....	.1512
Fines and other receipts for Literary Fund.....	.0164
Franchise taxes, other than on public service corporations.....	.0182
Income, taxes on.....	.0464
Inheritance, collateral and direct, taxes on.....	.0135
Insurance companies, license tax.....	.0422
Interest on taxes and deposits.....	.0043
Judges' salaries, receipts from counties and cities to pay their portion.....	.0032
License taxes.....	.0760
Money, taxes on.....	.0054
Motor fuel tax.....	.0119
Omitted taxes.....	.0034
Oysters, taxes on, etc.,.....	.0041
Penalty on taxes.....	.0025
Penitentiary, from hire of convicts.....	.0037
Personal property, taxes on.....	.0953
Public printing, refunds out of appropriations by departments, hospitals, institution, etc.....	.0032
Real estate, taxes on.....	.0953
Registration fees on corporations.....	.0044
Tax on transfer at death of personal property of non-residents.....	.0044
Taxes and fees for support of departments, other special funds.....	.0311
Miscellaneous receipts.....	.0148
Total.....	<u>1.00</u>

## DISBURSEMENTS:

### [ Section 412 ]

Payments out of the Treasury for all purposes during the year ending September 30, 1923, aggregated \$26,562,-012.58, and were as follows in the percentages given:

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Capitation taxes returned counties and cities, one-third of amount collected.....	.0099
Commissions to commissioners of revenue, examiners of records, postage, etc.,.....	.0123
Contingent expense of courts.....	.0017
Criminal charges.....	.0232
Crop Improvement Association, expended for.....	.0002
Excess fees of officers, the half returned counties and cities.....	.0022
Fines and forfeitures and other receipts paid over to Second Auditor for the Literary Fund.....	.0086
Forest reserve, disbursed to counties in which reserves are located.....	.0002
General Assembly, expense of, etc.,.....	.0023
Horticulture, expended for.....	.0002
Hampton Roads Port Commission, expense of.....	.0002
Hospitals, support, improvements, etc.,.....	.0429
Inheritance taxes returned counties and cities to be used for schools, one-half of amount collected...	.0059
Institutions, support, improvement, etc.,.....	.0861
Military, support of.....	.0044
Officers of government, salaries, expenses, contingent and traveling.....	.0309
Over payments into the treasury refunded.....	.0041
Oysters, protection of.....	.0029
Penitentiary and State Farm, and per diem allowance to prisoners.....	.0100
Pensions, payment of.....	.0365
Prohibition, Department of, to enforce.....	.0021
Public debt, to pay interest on and to provide sinking fund to settle.....	.0362
Public printing, expense of.....	.0050
Public free schools, support of.....	.1914
Public roads, construction and maintenance of.....	.3975
Reformatories, supports, improvements, etc.,.....	.0074
State boards, bureaus and departments:	
Agriculture.....	.0067
Auto fund, Secretary of Commonwealth.	.0052

Banking.....	.0017	
Censors, moving picture.....	.0007	
Co-operative Educational Association..	.0001	
Crop Pest.....	.0007	
Dairy and Food.....	.0026	
Game, also Dog Fund.....	.0081	
Geological.....	.0024	
Health (including special tax for tuberculosis).....	.0093	
Industrial Commission.....	.0024	
Insurance.....	.0019	
Medical Examiners.....	.0001	
Public Welfare.....	.0003	
War History Commision.....	.0002	.0424
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State office building, for erection of, etc.,.....	.0215	
State Rehabilitation Fund, expended from.....	.0010	
Travelers aid societies, expended for.....	.0004	
Truck Experiment Station, expended for.....	.0009	
Virginia Commission for the Blind, expenses of.....	.0004	
Virginia State fair, expenses for.....	.0002	
Vocational education, expended in conjunction with the United States to carry out provisions of Smith-Hughes Act of Congress.....	.0037	
Miscellaneous expenses of government, etc.,.....	.0052	
		<hr/>
Total.....	1.00	
		<hr/>

## [ Section 413 ]

The fiscal agents of the State as mentioned are the Justices of Peace who lay fines upon offenders against the law; the clerks of the Courts who receive the fines thus imposed, as well as fines laid by the Courts and juries; the County and City Treasurers or collectors who collect the State taxes; the two Auditors at the Capital on whose order funds collected, or arising from any other source or agency are accounted for; and the State Treasur-



er who receives such moneys and pays them into the various banks known as State Depositories.

[ Section 414 ]

The money received from the various sources mentioned is accounted for by the various officers at the times and in the manner provided by law, and such accounting entered upon the books required to be kept by them. No money belonging to the State or any department of the State can be paid into the State Treasury except upon the order of one of the Auditors. Nor can it be paid out except upon a like order.

[ Section 415 ]

The reason of this is that by this means only, can the State's accounts be accurately checked up and made to balance.

[ Section 416 ]

Every collection or receipt of public moneys required by law, should pass through one of the Auditors' books and be paid into the Treasury. Thus only can an accurate statement and balance sheet of the Commonwealth be made. Then the Treasurer's books and the books of the two Auditors would show the State's revenue and the disposition of it. As no money can be paid into or out of the Treasury except upon the warrant of one or the other of the Auditors, so all the State's revenue should be deposited in the Treasury. To illustrate. The money for the public schools which the Treasury holds in the various Banks is paid out upon the order of the State Board of Education. That which comes from the taxes on the tax bills is paid to the local treasurers for the Schools twice a year on the warrant of the Auditor of Public Accounts, and the rest of the school money is paid to those entitled upon the warrant of the second Auditor. Upon such warrants, the State

Treasurer inserts the name of the Bank he wishes to pay the amount and signs his name, thus making these checks. By this method the Auditors receive the original orders of the Board of Education as their vouchers; the Treasurer receives the cancelled checks from the banks as his vouchers, and his books are balanced with those of the Auditors.

### [ Section 417 ]

So, when the interest on the public debt is paid, or when the Board of Sinking Fund Commissioners purchase the State's bonds for the purpose of reducing the public debt as provided by law, the Chairman of the Board of Sinking Fund Commissioners calls upon the Auditor of Public Accounts to draw his warrant upon the Treasurer for the amounts as provided by Statute. Thereupon the warrant endorsed by the President of the Board of Sinking Fund Commissioners is put to the credit of the Sinking Fund upon the Treasurer's books and upon the books of the Sinking Fund, and the checks for the holders of the State's bonds who draw interest thereon or who choose to sell them to the Sinking Fund are issued therefor to such holders signed by the President of the Board, and by the Treasurer of the State.

### [ Section 418 ]

As in the case above cited, the cancelled checks and the cancelled bonds come back as the Treasurer's vouchers, the cancelled coupons in case of interest on "bearer bonds" are the vouchers of the Sinking Fund Commissioners, and the entry upon Registered Interest Ledger of the payment of registered interest, and the cancellation of bonds bought for the Sinking Fund upon the Individual Ledger account, constitute the proof of the Sinking Fund Commissioners' action. Similar entries are made of the transfer and cancellation of bonds and of the cancellation of coupons for interest on "bearer bonds" in the Office of the Treasurer.

## XXVI. The Fee System.

### [ Section 419 ]

From the settlement of the country, following the custom of the English law from which our institutions are derived, public officials acting as the administrative servants of the government dealing directly with individual matters personal to the citizen, have been paid by a charge made for such personal service against the party receiving such benefit.

### [ Section 420 ]

Thus, though every detail of such charge is regulated by Statute, difficulties arise which appear at times to threaten the whole system, and certain such difficulties appear in the eyes of some law makers worthy to overthrow the system, which has been the growth of many generations. The chief difficulty arises from the inequalities which exist in various localities. The Clerks, sheriffs, sergeants, constables, magistrates, and other officers paid by fees collected from litigants or others requiring their service in large cities and counties receive much more than those officials in smaller cities and municipalities. This, of course, is due only to the fact that in the large places there is more to be done; not that there is any difference in the individual charge for similar service.

### [ Section 421 ]

To meet this difficulty, a limit has been suggested to the amount to be received by certain officials during a year's service, the excess, if any, to be paid into the treasury, after oath taken, as to the amount. The objections to this method are that while the large county officials receive a large amount for large service, the small county or town official receives but little; and if Rockingham officials pay a certain amount into the treasury for the benefit of the State for services rendered by them, will not the State have to do something to help the officials from New Kent. The matter is now in embryo, and there has been some hysteria about the matter.



### [ Section 422 ]

They who see the question from another angle say that collections made for larger service if limited will tend to limit the service, and that if the officer who serves two warrants receives after a certain amount the same that another receives for serving one, he may be tempted to think himself unfairly dealt with. And, futhermore, that the man who has very few warrants to serve may think the State should look after his interest and see that no harm happens to him for lack of opportunity through no fault of his, in the light of the fact that she has taken something from another whom she says had a superfluity of opportunity. The doctrine which has been crystalized into a maxim may well be considered in this matter: "he who bears the burden, should receive the reward."

### [ Section 423 ]

The State has the right to equalize the pay for similar service; the danger to the State's revenue lies is the fact that if she proposes to make such an equalization, she cannot apply the rule only to the few at the top of the list, but will in justice have to meet the demands of those who impatiently abide an inequitable plan. For a dozen Justices of the Peace who receive large salaries, there are many who do not receive enough to pay for their horse feed, if they go on horseback to hold their courts.

### [ Section 424 ]

The clerk who issues the writ of attachment against a debtor starting across the State line, and the sheriff who is awaiting the process that he may serve it before the debtor leaves the State even though they go without dinner and supper may not feel called to act so promptly or to forego their comfort if they know that they are to receive nothing for their diligence.

## [ Section 425 ]

In the case of commissions allowed Treasurers and Collectors the difficulty has in a measure been met as already mentioned by allowing a larger commission for the small amounts collected, and by scaling down that commission in proportion to the increase, until a maximum figure is reached, on which, and on the Excess of which the minimum commissions are allowed.

## [ Section 426 ]

Statement Showing The Receipts And Disbursements Of  
The Literary Fund Through The Second Auditor's  
Office For The Years, 1912-1923.

YEAR	RECEIPTS	DISBURSEMENTS
1912	\$ 953,000.01	\$ 878,663.19
1913	861,344.40	874,098.04
1914	910,177.05	920,383.13
1915	1,023,276.26	991,599.57
1916	1,044,583.23	1,004,109.85
1917	1,064,512.55	1,119,176.16
1918	1,150,077.75	1,028,945.50
1919	1,497,082.25	1,363,526.67
1920	1,482,617.15	1,575,586.04
1921	2,557,554.16	2,525,723.02
1922	2,621,567.37	2,582,501.10
1923	2,375,166.32	2,368,233.54
	<hr/>	<hr/>
	\$17,540,958.50	\$17,232,545.81

## [ Section 427 ]

Statement Showing The Fines Received By The Literary  
Fund For The Years, 1912-1923, Included Above.

Years	Amounts
1912	\$146,737.54
1913	124,323.09

1914	128,270.17	
1915	123,130.21	
1916	139,023.00	
1917	120,959.00	
1918	154,760.04	
1919	346,851.04	
1920	310,591.61	
1921	308,744.88	
1922	16,210.66	Prohibition (nett) (1)
1922	287,363.20	Other than prohibition
1923	41,642.46	Prohibition (nett) (2)
1923	180,040.80	Other than prohibition
<hr/>		
\$2,428.667.70		

[ Section 428 ]

The Act 1922 required that prohibition fines, and forfeitures should be reported separately.

Note

(1) Between June 18th, 1922, and September 30th, 1922, the receipts from Prohibition fines, and forfeited property were

\$30,193.91

Less amount paid for enforcement of Prohibition law

13.983.25

\$16,210.66

(2) For the year ending Sept. 30, 1923, the receipts from Prohibition fines and sale of forfeited property were

\$209.896.46

Less amount paid for enforcement of Prohibition law

186,254.00

\$41,642.46



## [ Section 429 ]

The fines which are imposed in the Commonwealth for violation of the law, are much abated because in the municipalities, such fines are imposed as violations of ordinances and not for violation of the State's laws, though the offense is in violation of law as well as of town ordinance.

## [ Section 230 ]

Statement Showing The Outstanding Literary Fund School Loans For The Years, 1912-1923, Inclusive.

YEAR	AMOUNT
1912	\$ 680,375.73
1913	795,283.08
1914	863,635.32
1915	961,124.11
1916	1,017,249.47
1917	1,174,176.34
1918	1,165,995.34
1919	1,151,421.79
1920	1,511,466.16
1921	1,808,468.50
1922	2,105,040.69
1923	2,366,627.61

The table above shows the outstanding "Long Term and Special Election Bonds", and the "School Loan Bonds", both of which have been described already. The former are issued under Special Acts of Assembly, and the latter under the Act of March 15th, 1906, and its amendments.

## [ Section 431 ]

The School Loans are represented by 8659 bonds payable through the fifteen years since their issue. Of their due dates, notices are sent to the School Superintendents and School Boards thirty days before hand.

[ Section 432 ]

With its five millions of Literary Fund Investments, and its annually increasing addition from fines and forfeitures, those interested in the Educational Welfare of the State may well congratulate themselves. From it, the University of Virginia and the Medical College of Virginia were largely built; Emory and Henry College aided; and the State assisted during the Civil War. In ten years, its growth has been a matter of pride to all interested:—from \$2,604,610.36 to \$4,883,454.89.

[ Section 433 ]

For the year 1923, fifteen Treasurers and two Clerks of 17 counties; three Commissioners of the revenue, five Clerks, two Sergeants, one High Constable, three treasurers, and one Examiner of Records of thirteen cities refunded excess of fees amounting to nearly one hundred thousand dollars. Of this amount one half is returned to the County or City where it is collected. The sums so returned ranged from \$15.54 to \$11,065.35.

## XXVII. Great Legislative Acts.

[ Section 434 ]

Among the great acts that have been enacted within recent years have been the act for the settlement of the Public Debt; the act for bringing West Virginia to recognize her share of the Public Debt due by the old State at the time Virginia was divided; the act allowing, and affirming the Baylor survey of the oyster lands so as to define and delineate the oyster rocks, and thus prevent the destruction of the State's wealth of holdings in the waters; the acts for the Health Department; for the Industrial Commission; for the Compulsory Education of children; for the taxing of automobiles; for establishing a Highway System of Roads; for the admission of women into the University; the act which destroyed Open Barrooms; and the act which allowed the School Districts of the State to borrow at a

low rate of interest the capital of the Literary Fund for the purpose of building good school houses all over the Commonwealth.

[ Section 435 ]

There are many other enactments of great value, but these appear of such universal application, as to make them a benefit to all the people of the Commonwealth.

## XXVIII. Checks and Balances.

[ Section 436 ]

The Constitution requires that the General Assembly shall provide by law for the establishment and maintenance of an efficient system of checks and balances between the officers at the seat of the government entrusted with the collection, receipt, custody, or disbursement of the revenues of the State.

[ Section 437 ]

This has been done very effectively, in pursuance of another provision of the Constitution, which requires the General Assembly at each regular session to appoint a Standing Committee, consisting of two members of the Senate and three of the House of Delegates, to be known as the Auditing Committee, who shall annually or oftener in its discretion examine the books and accounts of the Executive Officers at the seat of Government, whose duties pertain to auditing and accounting for State revenue, and report the result of such investigations to the Governor, and cause the same to be published in two newspapers of general circulation in the State.



[ Section 438 ]

The Governor is required to submit such reports to the General Assembly for appropriate action. The committee may sit during the recess of the General Assembly, and employ accountants to assist in the investigations.

[ Section 439 ]

The power thus conferred has been duly exercised, and report duly made accompanied by the certificate of the State accountant as to each department; which certificate is accompanied by a detailed statement, and where there is one, by the balance sheet of the department examined.

[ Section 440 ]

Thus there are examined in detail, and due report thereof made and published of the following:

- Adjutant General
- Attorney General
- Enforcement Prohibition
- Auditor of Public Accounts
- Blue Ridge Sanatorium, Charlottesville, Va.
- Board of Censors
- Board of Public Welfare
- Board of Education
- Board of Health
- Board of Medical Examiners
- Board of Pharmacy
- Bureau of Vital Statistics
- Catawba Sanatorium
- Colony of Epileptics and Feeble Minded, Madison Heights
- Commission of Fisheries
- Commissioner of Agriculture and Immigration
- Commissioner of Labor and Industrial Statistics
- Corporation Commission—Bureau of Insurance, Banking Division

- Convict Road Force
- Dairy and Food Commission—Department of Agriculture
- Division of Markets
- Game and Inland Fisheries
- Geological Commission
- Highway Commission
- Hospital for Insane, Central, Petersburg; Eastern, Williamsburg; Southwestern, Marion; Western, Staunton
- Industrial Commission
- Legislative Reference Bureau
- Lime-grading Plant, Irvington, Staunton
- Lee Camp Soldier's Home
- Library
- Motor Vehicle Commissioner
- Normal School for Women—(State Teachers' College) Farmville, Fredericksburg, Harrisonburg, Radford.
- Normal and Industrial Institute, Petersburg.
- Penitentiary
- Piedmont Sanatorium, Burkeville, Va.
- Public Printing
- Purchasing Commission
- Register of the Land Office
- Second Auditor
- Secretary of the Commonwealth
- State Accountant
- State Farm, Lassiter, Va.
- State Treasurer
- Tax Board
- University of Virginia
- Va. Agricultural and Mechanical College and Polytechnic Institute
- Va. Home and Industrial School for Girls, Bon Air, Va.
- Va. Industrial School for Boys
- Va. Journal of Education
- Va. Manual Labor School, Hanover, Va.
- Va. Military Institute
- Va. School for Deaf and Blind, Staunton, Va.
- Va. School for Colored Deaf and Blind, Newport News.

Va. Truck Experiment Station, Norfolk, Va.  
War History Commission  
William and Mary College.

[ Section 441 ]

In addition to the Examination thus reported there is the check already referred to in a previous article, that no money can be either paid into the Treasury, or paid out of the Treasury of the State, except upon the order of one of the two Auditors.

The reason is obvious. The Treasurer's books must balance with those of the two Auditors.

[ Section 442 ]

In addition to the accounting above mentioned, the State Accountant is required to audit once in two years the accounts of all local officers handling State Funds. This applies to County Treasurers, County Clerks, etc. This provision has been the means of helping many faithful officials in locating some errors and delinquencies and thus benefitting the commonwealth. It is gratifying to know that the local officers have without exception manifested a hearty cooperation in this work.



## XXIX. Conclusion

### [ Section 443 ]

There is much ignorance as to the Government of Virginia among those who have no opportunity to inform themselves.

Unfortunately, lack of information does not go hand in hand with modesty; for those least informed are often the loudest in their condemnation.

### [ Section 444 ]

The Government of Virginia is based upon the original foundation laid by the convention of 1776, as already described, and as recently called by an eminent citizen, the first complete written instrument of government ever put in force by a free people. That constitution and Bill of Rights have been the model for many states. Its principles have withstood the changes of time and revolutions of men; but they have been the safe-guards of liberty, wherever found.

### [ Section 445 ]

A criticism sometimes heard is that there is a lack of efficiency in certain quarters and an amount of expense that in the opinion of the critics might be saved. The pathetic feature of such criticism is that it generally proceeds from a lack of appreciation of the work which the conduct of a great State entails.

### [ Section 446 ]

A favorite argument is to point to some other State where certain offices known in Virginia do not exist, and where perhaps taxes on a given subject are lower than in Virginia, or not even imposed.

It often happens that states are cited, who have refused to recognize their obligations, and have repudiated their indebtedness, or that make certain localities do what Virginia does as a Commonwealth.

**[ Section 447 ]**

Some years ago a distinguished citizen suggested that if the Fiscal Department of the state were conducted as a Bank is conducted there would be greater efficiency.

The answer was made that it was a matter of Nomenclature; and that if the Governor were called President of the Bank, the Auditors the Tellers, the Treasurer the Cashier, the revenue the deposits, the tax-payers and voters the stockholders, the Legislature the Board of Directors, and the various Departments, the clerks, book-keepers, etc., there would be the perfect analogy between the State's Financial Management and that suggested.

**[ Section 448 ]**

Complaint is sometimes made that certain officials receive an undue amount of salary for their services. If they do, it is a very simple matter to reduce the amount by act of the General Assembly, and not make the dozen cases where such a state of affairs exists ground for continual complaint, or for continued efforts to change the fundamental working of the government.

**[ Section 449 ]**

Any one can see faults in the working of any plan of government, but only those who can suggest the remedy are to be heard.

To take an illustration. There is fault found with what is called the great inequalities in the assessments. Taking 41.4 as the average per cent of assessments to sales made in counties and cities, ten counties are below 20 per cent.

**[ Section 450 ]**

The assessments are made of land once in five years by an assessor appointed by the Circuit Court of the Counties and by the Hustings Court of the Cities. The assessments of personal property, and of the improvements made

on land in the way of new building, etc. are made annually by a Commissioner of the Revenue who is elected in the district, county or city in which he serves.

[ Section 451 ]

The remedies so far suggested are not thought to be feasible; for they go counter to every principle of Democratic government.

The suggestion that a Tax Board or Tax Boards centrally located can assess the lands and personalty of the Commonwealth is an impossibility.

The suggestion that the sales of lands in a community is to be the guide, is equally unreliable; for they are often based upon sentimental, or accidental values.

[ Section 452 ]

The city man's estimate of farm lands, and the farmer's estimate of city real estate are at times inaccurate and impossible of being taken as a guide. The country man says the city apartment house brings in more revenue than ten miles square of his farm lands. The city man says the farmer's timber is worth ten times the revenue from a vacant city block.

[ Section 453 ]

Perhaps some equitable basis may be devised, but it will not be by the constant re-iteration of what every body knows that there are inequalities; but by the wisdom of the practical men who by patience, and laboriousness can show how the wrong can be corrected.

[ Section 454 ]

Government in Virginia is in the hands of her own people. Her burdens are by no means grievous as the result of her laws.



Her faithful officials with the few exceptions already noted are perhaps the poorest paid of any great State in the Union. The Constitution as already stated limiting the Governor's salary to five thousand dollars has had the effect of keeping down every other salary in the Commonwealth far below what similar labor receives in commercial life. Presidents of Banks, Railroads, and Corporations receive salaries many fold greater than the great positions of the State. But they who conduct the affairs of government have the satisfaction of knowing that even at the small salaries they receive there are always some of their fellow-citizens who regard them as the favored class and blessed beyond measure—as indeed they are—in being allowed to serve the Commonwealth of Virginia.

[ Section 455 ]

A great Commonwealth is more than a business corporation, more than any corporate enterprise, more than any financial undertaking. It is the association of all who are entitled to dwell within her borders in such an orderly and well designed way of living as to enable the best to be promoted without damage to others, and to secure to them and their posterity the blessings of life, liberty and the pursuit of happiness.

Tempore, prima, imperio atque in corde tuorum,  
Virginia!

Finis.



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The Index is both Questionnaire and Key.

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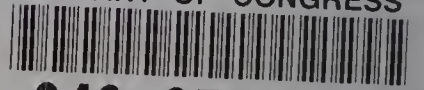








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